

Refugee Reports

A News Service of the U.S. Committee for Refugees

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FY 90 REFUGEE BUDGETS CLEAR CONGRESS, AWAIT PRESIDENTIAL SIGNATURE

Nearly eight weeks into a new fiscal year, two spending bills that include \$790 million for the U.S. refugee program have been cleared by Congress and await signature by President Bush to be enacted into law. Both bills survived vetoes and veto threats, thus avoiding the need for another short-term "continuing resolution" to fund refugee programs at home and abroad.

A \$368.8 million appropriation for the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services is included in the Labor/HHS/Education Appropriations Bill, which was cleared by Congress on October 19 but vetoed by President Bush two days later, because it contained an amendment providing federal funds for abortions in cases involving rape and incest. Congress later agreed to drop the amendment, and the bill (H.R. 3566) is expected to be enacted shortly.

Similarly, Congress agreed to remove an abortion-related amendment in the Foreign Operations Appropriations Bill (H.R. 2939), which appropriates \$370 million for the Department of State's migration and refugee assistance programs, to cover processing and admissions costs as well as relief and assistance programs overseas. The bill provides an additional \$50 million to the State Department for emergency refugee migration and assistance programs.

Refugee language in the foreign aid measure includes eight separate Congressional earmarks, most of them relating to overseas assistance programs. The bill also includes an amendment that would establish certain groups of Soviet and Indochinese refugee applicants as belonging to categories of people "who share common characteristics that identify them as targets of persecution."

The State Department has opposed all of the earmarks on the grounds that they restrict the government's capacity to meet new and unexpected needs that arise during the year. The Department has also objected to the establishment of "category groups" for refugees.

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ORR Has Less Money for Cash and Medical Assistance, More for Other Services The Administration's initial budget request, submitted in January, was for \$242.3 million, based on an estimate of 84,000 refugee admissions. In October, President Bush authorized admissions of 125,000 refugees. Congressional conferees, in a report accompanying the Labor/HHS/Education spending bill, said the budget request "falls well below the amount required to maintain current services," and added \$126.5 million.

The final appropriation, however, provides \$13.5 million less than was available for ORR resettlement programs in FY 89, despite the fact that the admissions ceiling has increased from 116,500 to 125,000.

The largest cut was made in the budget line-item for refugee cash and medical assistance, which dropped from \$261.8 million in FY 89 to \$210 million in FY 90 (see chart on page 3). The conferees said that they "intend that the period of reimbursement for cash and medical assistance not fall below 12 months." In fact, ORR officials say that the period of federal reimbursement to states would fall to somewhere between 4 and 7 months.

"This continues a trend of shifting the burden of refugee resettlement from the federal government onto the states," said Bruce Bushart, New York state refugee coordinator. "Such a substantial shift as this begins to erode support for the refugee program."

Funding for many other ORR programs actually was increased over last year's levels. The social services budget was upped by \$9 million and targeted assistance by \$4 million, but the most dramatic jump was seen in the voluntary agency matching grant program budget, which went from \$15.8 million in FY 89 to \$40 million in FY 90.

Under the matching grant program, ORR provides up to \$957 per refugee to match, on a dollar-for-dollar basis, private contributions made by resettlement agencies. The goal of the program is to help refugees attain self-sufficiency, without access to public cash assistance, within four months after arrival.

Although the matching grant program is not restricted to any refugee ethnic group, more than 70 percent of the annual caseload comprises Soviet Jews. Because the U.S. approved admissions of an additional 25,000 Soviet refugees in mid-FY 89, without pro-

viding additional funding for domestic programs, ORR could provide only about \$260 per refugee in matching money last year.

The Council of Jewish Federations (CJF), which is responsible for the U.S. resettlement of Soviet Jews, estimates that the agency incurred about \$18 million in unreimbursed matching grant expenses in FY 89.

Of the \$40 million appropriated for FY 90 matching grant costs, a CJF official said that \$3 million will be available retroactively to cover FY 89 voluntary agency expenditures. The rest will be used in large part to resettle an estimated 30,000 Soviet Jewish refugees this year.

CJF hopes to recoup the remaining \$15 million of FY 89 expenses through an earmark on the State Department's migration and refugee assistance account, transferring that amount to ORR.

Congressional Earmarks Mean Less Money for Refugees Overseas, State Department Says

A senior State Department official, in testimony before the House Foreign Affairs Committee on November 17, said that the net effect of the Congressional earmarks, coupled with the already limited funding levels for overseas assistance in FY 90, will be to reduce the U.S. contribution to the UN High Commissioner for Refugees (UNHCR) budget from around 25 percent of the worldwide total to about 16 percent.

U.S. contributions to UNHCR totalled \$109.6 million in 1989. The reduced amounts for 1990 programs, according to one international refugee official, "will have a definite impact on the levels of contributions from other countries and on levels of assistance in refugee camps."

"We felt that the transfer was the least bad of two lousy alternatives," said Ellen Witman, associate director of CJF's Washington Action Office, who had lobbied Congress for the \$15 million shift. "If we didn't fight for the transfer," she told *Refugee Reports*, "our programs would be forced to eat \$15 million" owed by the federal government for FY 89 matching grant costs.

Witman said that a number of Administration officials and members of Congress had publicly stated the need for a State Department supplemental appropriations later in the year, at which point the refugee money could be restored. "An ORR supplemental, however, is very unlikely," Witman

said. "We are hoping for an early spring supplemental" to restore the State Department funds, she added, "and will work very hard to see that happen."

Regardless of the prospects for a budget supplemental, "it sets a dangerous precedent to earmark foreign aid money for domestic programs," said Dawn Calabria, associate director for refugees for the United States Catholic Conference, Migration and Refugee Services. "Domestic constituencies will always be more powerful than overseas constituencies. This puts us on a slippery slope. What other domestic needs will be met next year with overseas refugee aid money?"

Other Congressional earmarks on the foreign aid bill include a \$10 million earmark for aid to ethnic Turkish refugees fleeing Bulgaria; \$25 million for resettlement of Soviet Jews and other refugees in Israel; and a \$250,000 earmark for humanitarian assistance to displaced Burmese students on both sides of the Thai-Burmese border.

"Category Groups" The State Department bill also includes an amendment that modifies legislative proposals made by Rep. Bruce Morrison (D-Conn.) and Sen. Frank Lautenberg (D-NJ), to establish categories of people from the Soviet Union and Indochina "who share common characteristics that identify them as targets of persecution."

The amendment parallels the Morrison and Lautenberg proposals in establishing as category groups for the remainder of FY 90, Soviet Jews and Evangelical Christians, members of the Ukrainian Catholic or Orthodox Church, and Indochinese previously identi-

fied as such by the INS "Worldwide Guidelines for Overseas Refugee Processing" issued in August 1983. These include Chinese, and Buddhist monks in Vietnam and Cambodia, Vietnamese Catholics, Hmong in Laos, and pre-1975 government and military officials in all three countries.

The amendment also allows all Soviet, Vietnamese, Laotian, and Cambodian nationals who were denied refugee status and instead entered the United States as parolees between August 15, 1988 and September 30, 1990 to adjust to permanent resident status.

State Department Authorization Bill

Although Congress did not reauthorize the Refugee Act of 1980, it did reauthorize refugee funding for the Department of State, which awaits a Presidential signature.

The State Department authorization bill (H.R. 1487) includes language requiring the Secretary of State to submit a report to Congress on U.S. immigration and refugee policy as it relates to Burmese refugees on the Thai-Burmese border. Congress also condemned Bulgaria's mistreatment of its Turkish minority and called for an end to discriminatory practices and for free emigration of ethnic Turks.

The conference report accompanying the bill includes an expression of concern "that Malaysian authorities have recently engaged in a pattern of 'push-offs' of Vietnamese seeking asylum on the east coast of Malaysia, with more than 2,000 persons being denied first asylum in Malaysia since May 1989." According to UNHCR reports, at least four have died.

FY 90 APPROPRIATIONS FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (H.R. 3566)

REFUGEE AND ENTRANT ASSISTANCE

	FY 89 <u>Appropriation</u>	FY 90 <u>Request</u>	FY 90 <u>Appropriation</u>
Cash/Medical Assistance and State Admin.	261,820,000	201,659,000	210,000,000
Social Services	64,906,000	30,000,000	75,000,000
Voluntary Agency (Matching Grant) Programs	15,808,000	7,659,000	40,000,000
Preventive Health	5,770,000	3,000,000	5,770,000
Targeted Assistance	<u>34,052,000</u>	<u>0</u>	<u>38,052,000</u>
TOTAL	382,356,000	242,318,000	368,822,000

FY 90 FOREIGN OPERATIONS APPROPRIATIONS FOR THE DEPARTMENT OF STATE (H.R. 2939)

MIGRATION AND REFUGEE ASSISTANCE

	FY 89 <u>Appropriation</u>	FY 90 <u>Request</u>	FY 90 <u>Appropriation</u>
Refugee Admissions	140,000,000	156,500,000	
Refugee Assistance			
East Asia	26,000,000	25,500,000	
Africa	54,530,000	58,200,000	
Near East	81,800,000	80,300,000	
Latin America	<u>11,020,000</u>	<u>11,200,000</u>	
Subtotal	173,350,000	175,200,000	
Refugees to Israel	28,000,000	20,000,000	
International Organizations	12,600,000	10,300,000	
Administration	<u>8,000,000</u>	<u>8,000,000</u>	
TOTAL	361,950,000	370,000,000	370,000,000*

EMERGENCY REFUGEE AND MIGRATION ASSISTANCE

	FY 89 <u>Appropriation</u>	FY 90 <u>Request</u>	FY 90 <u>Appropriation</u>
	50,000,000	10,000,000	50,000,000

* While the Foreign Operations appropriations bill includes no line item allocations, it does include 8 separate earmarks and an amendment establishing "category groups" for Soviet and Indochinese refugee applicants.

Earmarks:

\$15,000,000	To be transferred from the State Department's Migration and Refugee Assistance account to the Office of Refugee Resettlement for the voluntary agency matching grant program. This money would reimburse voluntary resettlement agencies for matching grant costs incurred in FY 89.
\$46,000,000	For admission of Indochinese refugees in first asylum countries. A Senate earmark on the \$156,500,000 available for refugee admissions worldwide was dropped in conference. Conferees also deleted a \$15,000,000 earmark for admission of Amerasians and their family members from Vietnam, but noted that about \$40,000,000 would be needed for Amerasian resettlement in FY 90.
\$1,500,000	For refugee protection programs on the Thai-Cambodian border.
\$1,500,000	For the anti-piracy program in Southeast Asia.
\$25,000,000	For the resettlement of Soviet, Eastern European, and other refugees in Israel.
\$10,000,000	For "assistance for shelter, food and other basic needs to ethnic Turkish refugees fleeing Bulgaria." Conferees deleted a Senate earmark of \$5,000,000 to assist Iraqi Kurdish refugees in Turkey but said "it would be a tragedy not to give immediate and direct assistance" to the 36,000 Iraqi Kurds living in southeastern Turkey.
\$8,250,000	As a cap for administrative expenses of the Bureau for Refugee Programs.
\$250,000	For "food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for displaced Burmese students at camps on the border with Thailand."

"Category Group" Amendment

The Foreign Operations appropriations bill also includes an amendment that would require the Attorney General, in consultation with the Secretary of State and the Coordinator for Refugee Affairs, to establish categories of people from the Soviet Union, Vietnam, Laos, and Cambodia "who share common characteristics that identify them as targets of persecution." The amendment, a modified version of proposals offered previously by Rep. Bruce A. Morrison (D-Conn.) and Sen. Frank Lautenberg (D-NJ), would:

- o Establish as category groups, for the remainder of FY 90, Jews and Evangelical Christians from the Soviet Union as well as Indochinese previously identified as such by the Attorney General in the August 1983 "Worldwide Guidelines for Overseas Refugee Processing" issued by the Immigration and Naturalization Service.

- o Establish current, active members of the Ukrainian Catholic Church or the Ukrainian Orthodox Church as a category group and allocate 1,000 FY 90 admissions numbers for their resettlement.

- o Establish that a member of a category group "has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution."

- o Require that "each decision to deny an application for refugee status of an alien who is within a category established under this section shall be in writing and shall state, to the maximum extent feasible, the reason for the denial." This would apply only to decisions made after enactment of the act and before October 1, 1990.

- o Permit any member of a category group who was denied refugee status after August 14, 1988 and before enactment of the law to reapply for such status.

- o Require the General Accounting Office to submit a report to Congress by March 31, 1991 on refugee processing in Moscow and in Italy, including "an evaluation of efforts to phase out Soviet refugee processing in Italy."

- o Require the Attorney General to adjust to permanent resident status anyone from the Soviet Union, Vietnam, Laos, or Cambodia who was granted parole into the United States during the period August 15, 1988 to September 30, 1990, after having been denied refugee status.

The Morrison bill would have established a member of a category group as "subject to persecution without the need to provide independent or additional evidence regarding persecution." This amendment, closer to language proposed by Lautenberg, requires a member of a category group to establish a well-founded fear of persecution "by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution." In report language accompanying the bill, House and Senate conferees stated that they "intend that a 'credible basis for concern' is established if the applicant asserts: (1) acts of mistreatment, or prejudicial action against the individual personally such as, but not limited to, (a) inability to study or practice religious beliefs or ethnic heritage; (b) denial of access to educational, vocational or technical institutions for which he or she is otherwise qualified, based on the individual's membership in the group; (c) adverse treatment in the workplace stemming from prejudicial attitudes towards members of his or her group; or (2) acts of persecution committed against similarly situated individuals, in his or her geographic locale; or (3) instances of mistreatment or prejudicial actions based on the individual's request to depart the individual's homeland, including, but not limited to, loss of home, job or education opportunity; (4) knowledge, either from having read of or heard of, of situations like those in (a), (b), and (c) as affecting persons in the same category residing elsewhere in the home country.

"Once a credible basis for concern about the possibility of persecution has been established, the burden of disproving eligibility for refugee status will fall upon the United States government."

Update

In light of the rapidity of changes in Eastern Europe, particularly since the opening of the border between East and West Germany, and the extensive coverage of these developments in the press, this issue of Refugee Reports will not attempt to catalogue all such changes. Suffice it to say, that in addition to the removal of emigration barriers for East Germans, Czechoslovakia dropped the requirement for exit visas before leaving the country on November 14, and the Soviet Parliament on November 13 approved the first reading of a bill to ease emigration restrictions, though it would still reportedly bar emigration for up to five years for Soviet citizens with access to state secrets.

* UN High Commissioner for Refugees Jean-Pierre Hocke resigned his post effective November 1, amidst charges of mismanagement and misuse of funds.

Both the U.S. State Department and the UN had been critical of Hocke. According to the October 27 Washington Post, an August State Department report said that continuation of Hocke's policies would "further pollute the air of negativism which already swirls around UNHCR." A UN panel set up to investigate charges of favoritism and poor hiring practices by Hocke concluded that the prevailing situation could prevent UNHCR "from effectively carrying out its mandate," and might "damage the UN as a whole."

Gerald Hinteregger was appointed to head UNHCR until a new High Commissioner is named. The present front-runner for the post is Thorvald Stoltenberg, Norway's former foreign minister, who is favored by the Nordic countries. USCR director Roger Winter appealed to the international community to support UNHCR. "At this critical point, when the institution of UNHCR is at a low ebb," Winter said, "it is important that statesmen, not politicians, rally around UNHCR to protect its mandate, its future, and the lives of refugees the world over."

* A group of 1,127 Salvadoran refugees who

had been living in Mesa Grande camp in Honduras returned to their homeland at the end of October. According to the Washington office of the UN High Commissioner for Refugees (UNHCR), 33 buses and 148 trucks transported the returnees and their belongings to three main sites in El Salvador. The convoys were accompanied by UNHCR staff from Honduras, El Salvador, and Costa Rica and by 19 members of the U.S. Going Home National Interfaith Campaign.

The repatriation was marred by disputes over whether the refugees would be allowed to return to their areas of origin, and delays in the registration process, which took place at the refugee camps at the insistence of the Salvadoran government.

A total of 12,073 Salvadorans remain in refugee camps in Honduras (Colomoncagua, 8,362; Mesa Grande, 2,584; San Antonio, 1,127). Some 8,000-10,000 of those who remain have indicated that they also plan to repatriate.

* Princeton Nathan Lyman has been named the new director of the U.S. State Department's Bureau for Refugee Programs. Lyman was selected by Secretary of State James Baker III to replace Ambassador Jonathan Moore.

Lyman has spent much of his professional life working in the State Department. He has been deputy assistant secretary of state for African affairs, and, most recently, served as U.S. Ambassador to Nigeria.

* Secretary of Health and Human Services Louis Sullivan has appointed Chris Gersten as director designate of the Office of Refugee Resettlement (ORR). Gersten held his first meeting with state refugee coordinators at ORR's annual meeting in November. He told them he hoped to push hard for early self-sufficiency for refugees. "We push early employment not because of our legal mandate," Gersten said, "but because early employment is the best thing for refugees and for the community as a whole."

Prior to his appointment, Gersten was executive director of the National Jewish Coalition. He has also worked with the Freedom Federation, where he founded and chaired a coalition of Eastern Europeans, Balts, Southeast Asians, and Cubans.

* Gene McNary was confirmed by the U.S. Senate on October 24 as the new Commissioner of the Immigration and Naturalization Service (INS). McNary promised to bring order and more centralized authority to the INS. Recently, outgoing INS General Counsel Raymond M. Momboisse wrote a 22-page memo calling the agency "totally decentralized" and "totally disorganized."

The Momboisse memo compared the INS to a feudal state "with each region, district, and sector acting independently to give its own interpretation to the law." Momboisse criticized the agency for poor record keeping, overhiring, sloppy enforcement procedures, and "incompetency at all levels of command."

The memo was first made public by Sen. Dennis DeConcini (D-Ariz.) at the McNary confirmation hearing on October 3 and subsequently leaked to the press.

Earlier, Attorney General Dick Thornburgh had ordered an audit of the agency that revealed far-ranging mismanagement, millions of dollars of unnecessary costs, extensive adjudication backlogs, and inconsistent policy implementation (see Refugee Reports, Vol. X, No. 4).

* U.S. District Judge David V. Kenyon has once again found the INS to be in violation of his injunction in the Orantes-Hernandez class-action suit requiring it to inform Salvadorans in INS detention of their right to apply for asylum and to provide Salvadorans with access to attorneys, lists of free legal services, legal rights materials, pencils and paper, and telephones. (See Refugee Reports, Vol. X, No. 5 and Vol. IX, No. 5.)

On September 28, Kenyon found the INS in contempt of his earlier injunction requiring it to provide at least one telephone per 25 detainees. He cited "clear and convincing evidence that defendants have not complied with injunctive requirements regarding access to telephones."

On other matters, such as advising detainees of their rights, access to writing and legal materials, and providing lists of free legal services, Kenyon said that INS action does not rise to the level of contempt, but that "the Court is greatly concerned by the documented instances of non-compliance and believes that remedial measures are appropriate to ensure future

compliance."

Among other things, Kenyon ordered the INS to continue group legal rights presentations; to train INS and contract employees at the Port Isabel Service Processing Center in the requirements of the Orantes injunction; to require that attorneys and paralegals have access to clients within 15 minutes of presenting their names to the authorities; and to make legal rights materials freely available.

* On November 6, U.S. District Judge William P. Gray ruled that immigration judges violate the constitutional rights of non-English speaking aliens in immigration proceedings by failing to translate the entire proceedings into the aliens' language.

The class-action suit, El Rescate Legal Services, Inc., et. al. v. Executive Office of Immigration Review (EOIR), was brought on behalf of all non-English and limited-English-speaking individuals who are or will be subject to immigration court proceedings in the Los Angeles and San Diego INS districts.

Gray ordered that when interpreters are required, "the entire proceedings shall be interpreted." Immigration courts generally interpret only direct questions to the aliens. If, for example, a Border Patrol agent is called to testify, such testimony has generally not been translated.

Judge Gray said he was "troubled by the lack of concern for the interests" of persons undergoing deportation proceedings by the government. Gray added that he was "appalled" by Chief Immigration Judge William Robie's testimony that court interpreters serve only for the creation of an official court record.

Niels W. Frenzen, an attorney with Public Council, who was one of the attorneys for the plaintiffs, said that the action was based on the Fifth Amendment guarantee of due process, as well as the statutory rights in the Immigration and Nationality Act to be present, cross examine witnesses, and to present evidence.

Although this is a national policy and the rights being abridged are also national in scope, the order is limited to immigration courts in San Diego, El Centro, and Los Angeles.

The government has 60 days to appeal the

decision.

* The INS issued a cable to its field offices on October 12 reaffirming that INS officers should, on a case-by-case basis, "view sympathetically" Lebanese nationals' requests for deferred departure "where such requests are based upon compelling humanitarian need."

The cable said, "This is a lesser standard than a fear of persecution." The INS has declined, however, to make a blanket extended voluntary departure (EVD) ruling on behalf of Lebanese.

Legislative measures to delay the deportation of Lebanese have been introduced by Rep. Mary Rose Oakar (D-Ohio)--H.R. 3267--and by Rep. Dan Glickman (D-Kan.)--H.R. 3239--(see Refugee Reports, Vol. X, No. 10).

* Ambassador Princeton Lyman, director of the State Department's Bureau for Refugee Programs, predicted that asylum approval rates for Eastern European applicants will decline in the coming year due to improved human rights conditions in that region.

In testimony on November 3 before the House immigration and refugee subcommittee, Lyman said, "As the pace of liberalization has accelerated over the past year, many of the conditions that led to this rate of eligibility [about 50 percent in FY 89] for refugee status have been removed."

Acting INS Chief of Staff Gerald Coyle told the same subcommittee that Western Europe should take primary responsibility for East European asylum seekers. "The U.S. refugee resettlement program cannot serve as a substitute for another country's first asylum responsibilities," he said.

Lyman suggested that the United States should encourage East Europeans to stay at home and work for change in their own countries.

Rep. Bruce A. Morrison (D-Conn.), chairman of the subcommittee, commented that the regional ceiling for FY 90 of 6,500 refugee admissions was likely to be insufficient to meet the demand.

He noted that some 25,000 East Europeans in Western Europe are awaiting INS interviews, but that those interviews have been suspended for lack of available refugee admissions slots.

Recent Developments

TEMPORARY SAFE HAVEN BILL PASSES HOUSE, ADVANCES IN SENATE

A bill that would provide temporary safe haven for Nicaraguans, Salvadorans, and Chinese nationals in the United States passed the House of Representatives by a 258-162 vote on October 25. A measure limited to Salvadorans and Nicaraguans also was reported favorably out of the Senate Judiciary Committee on November 2 by a 11-3 vote.

Rep. Bruce A. Morrison (D-Conn.), chairman of the House Subcommittee on Immigration, Refugees, and International Law, and one of the chief architects of the House bill, spoke of the bill as a "marriage" of three separate legislative initiatives. First was Rep. Joe Moakley's (D-Mass.) original bill to establish temporary safe haven for Nicaraguans and Salvadorans (see Refugee Reports, Vol. IV, No. 10; Vol. VI, No. 8; Vol. VII, No. 8; Vol. VIII, No. 8; Vol. X, No. 10). Added to this was Morrison's modification of President Bush's order providing protected status to Chinese nationals (see Refugee Reports, Vol. X, No. 7). Members of Congress had criticized the Administration's actions for lacking a clear statutory basis and for only providing a single year of protection.

The final part of the "marriage" was a legislative initiative started last year by Rep. Romano Mazzoli (D-Ky.) for a "generic" legislative framework to provide criteria to allow persons whose countries are in turmoil to remain in the United States temporarily (see Refugee Reports, Vol. VIII, No. 11; Vol. IX, No. 10; Vol. X, No. 6).

As now drafted in the House, Morrison said H.R. 45 "will create a category of immigration law where there has been a gap, where there has only been administrative discretion."

The amended Moakley bill picked up another 21 votes this year from when it passed last year before Chinese nationals and the generic safe haven language had been added. Mazzoli himself, who, as the former chairman of the House refugee subcommittee,

had been the most prominent Democrat to oppose the bill last year, now voted in favor (see Refugee Reports, Vol. X, No. 2).

H.R. 45 also gained the support of high profile conservatives, such as Henry J. Hyde (R-Ill.), who circulated a "Dear Colleague" letter shortly before the vote saying, "More than a decade of Marxist Sandinista oppression has left more than 150,000 Nicaraguans in the United States in uncertain legal status. Please join with me in supporting this measure so that we can provide this short-term protection to the families of these brave freedom fighters."

Another new supporter of the bill, Rep. Hamilton Fish (R-N.Y.), a prominent minority member of the House refugee subcommittee, had been a key leader in the floor flight against the bill in the last session of Congress.

This time around, however, Fish said, "Humanitarian considerations require us to offer temporary refuge to people already in our country who cannot return home safely. The threat to human life posed by war or natural disaster can be as great--or even greater--than the risk to life posed by the threat of persecution."

Fish said that a strength of the revised bill is its requirement that aliens register for its protection, so they would be identifiable. At present, he said, we do not know the identities of hundreds of thousands of people. After their temporary status terminates, he said, registered people would be more likely to return home when conditions in the home country improve. "In the meantime," Fish said, "it is in our national interest to have Salvadorans and Nicaraguans living in the open rather than maintaining an underground existence."

A number of other Republicans continued to express opposition to the measure. Rep. Bill McCollum (R-Fla.), also active on the House refugee subcommittee, expressed his opposition to the bill "somewhat reluctantly" because, he said, "I understand the concerns that many have with the affected nationals." But, he said, the singling out of certain nationalities because of civil strife "ignores other countries and people who may qualify for assistance for the same reasons."

"Most of the Middle East, South Africa, and several other African countries, most of Central America, much of Southeast Asia, and

many in South America might qualify if we applied the same kind of liberal standard," McCollum said.

"What happens if the Mexican economy slides and civil strife occurs?" he asked. "What happens then?"

Senate Judiciary Marks Up DeConcini Bill

After weeks of delay, the Senate Judiciary Committee on November 2 finally considered six amendments from Sen. Alan K. Simpson (R-Wyo.) to DeConcini's temporary safe haven bill for Nicaraguans and Salvadorans and reported the amended bill to the full Senate.

The Judiciary Committee defeated by a 10-4 vote an amendment that would have directed the Attorney General to create "standard profiles" of groups within El Salvador and Nicaragua who might be subject to adverse treatment, so that, on a case-by-case basis the Attorney General would be able to grant a single year of extended voluntary departure (EVD) to persons matching those profiles. Sen. Dennis DeConcini, the bill's author, said that the amendment would "do away with the purpose of the bill," which, he said, is to protect individuals "subject to random violence." He said that the Attorney General could and should do standard profiles, but that such action did not require legislation.

DeConcini accepted other Simpson amendments that would require a registration fee and that would reduce from 180 to 90 days the period after enactment for nationals of El Salvador and Nicaragua to register for the bill's protection.

DeConcini also accepted a Simpson amendment that would prohibit EVD to aliens who return voluntarily to their home countries after January 1, 1989, but added language that would allow the Attorney General to grant "advanced parole" to returning aliens in certain cases. DeConcini mentioned deaths, emergencies, and the upcoming elections in Nicaragua as possible reasons for granting advance parole.

The Judiciary Committee rejected by a 10-4 vote an amendment that would have prevented future consideration of bills to adjust to permanent resident the status of these protected nationalities. The Committee also rejected by a 10-4 vote an amendment for the federal government to reimburse state and local governments for 100 percent of the costs incurred as a

result of this bill.

DeConcini and Moakley Bills No Longer "Companion" Pieces of Legislation The DeConcini and Moakley bills now differ in several important respects. The most obvious difference, of course, is that the House bill, H.R. 45, includes a third nationality--Chinese--as beneficiaries.

H.R. 45 also lays out the criteria for "temporary protected status" (TPS) as a statutorily distinct category. The Attorney General is authorized to designate temporary protected status due to 1) ongoing armed conflict; 2) earthquakes, floods, droughts, epidemics, or other environmental disasters where the affected country is temporarily unable to handle the return of aliens and the government requests a grant of TPS; or 3) other "extraordinary and temporary conditions" that prevent aliens from returning.

Moakley's bill would also give those eligible for protection nine months to register, as opposed to three months under the DeConcini bill.

The House bill has a U.S. residency cut-off date of July 1, 1989; the Senate cut-off date is January 1, 1989.

H.R. 45 suspends deportation for three years. Under S. 458, deportation is suspended while the General Accounting Office studies the safety of return to Nicaragua and El Salvador and while Congress considers the report and makes recommendations based on it. That period of time would be roughly two years.

The amended DeConcini bill, S. 458, now proceeds to the Senate floor. Having passed the House, H.R. 45 will now be considered separately by the Senate Subcommittee on Immigration and Refugee Affairs.

UNHCR FUNDING CRISIS DEEPENS

For several months, the Office of the UN High Commissioner for Refugees (UNHCR) has faced a major funding crisis (see Refugee Reports, Vol. X, No. 7). UNHCR has already cut services to refugees, asserting that these cuts have been in important but non-life-threatening areas, such as education, legal aid, and programs to promote self-sufficiency. But ominous signs point to cuts in essential areas such as medical services and nutritional programs.

In Malawi, according to UNHCR, "Plans to replace highly inadequate medical facilities...have had to be cancelled...[and] nutritional standards are likely to decline as a result." In fact, according to a report by the World Council of Churches, nutritional surveys among the refugee population in Malawi have shown that the level of malnutrition has already risen from 5 percent in 1988, to 10-15 percent in 1989. The report adds that malnutrition rates have also gone up in refugee camps in Sudan and Somalia. If additional funds are not forthcoming, UNHCR says, the organization "may not even cover survival needs."

As a result of the cuts, projects to help refugees become self-sufficient, education and mental health programs, and projects for refugees with special needs, such as women and the elderly, have been cancelled.

UNHCR is almost entirely dependent on contributions from UN member nations for its operations. Although financial support from the leading donor governments, including the United States, increased 16 percent between 1986 and 1988, it has not kept up with the rising cost of caring for existing refugees, responding to new emergencies, and assisting refugees to repatriate. Those costs rose 41 percent during the same period.

Feature

ASYLUM APPEAL CASES RAISE HOPE FOR MORE POSITIVE DECISIONS

While continuing to take a narrow approach toward asylum seekers from Central America, the Board of Immigration Appeals (BIA), the highest administrative level of asylum appeal, has recently granted asylum in cases involving applicants from nationalities outside the Western Hemisphere. These cases become precedents that may, in the future, be more universally followed.

The recent asylum decisions involve applicants who can document past persecution, but not necessarily a future threat; who have lived in third countries before entering the United States; and who have fled as a result of persecution or fear of persecution based on political neutrality in civil conflict.

BIA Grants Asylum Based on Past Persecution without Fear of Future Persecution

In an April 25 decision that predated the June massacre at Tiananmen Square, the BIA determined that a Chinese national could be granted asylum based on past persecution, even in the absence of evidence of a well-founded fear of future persecution.

In Matter of Chen, the BIA noted that the law defines a refugee as a person unwilling or unable to return to his country because of "persecution or a well-founded fear of persecution." The plain language of the statute, said the BIA, indicates that past persecution can be the basis for the persecution claim.

Chen, the son of a Christian minister, testified that he and his family were persecuted in China during the Cultural Revolution of the 1960s and 70s. During that time, his father was arrested, paraded through the streets on more than 50 occasions, forced to write "confessions" of his crimes, and at one point pushed into a bonfire of Bibles, where he was severely burned. When he was eight years old, the Red Guards locked Chen in a room for six months, where he was deprived of food and mistreated. Chen stated that he is physically disabled due to abuses he suffered, that he must wear a hearing aid, is anxious and fearful, and often suicidal. He testified that he would kill himself if forced to return to China.

The State Department's advisory opinion stated that Chen did not have a well-founded fear of persecution.

In 1984, an immigration judge found that the "leniency of the present Government of China to mere religious activity does not permit a finding of a well-founded fear" of persecution in the future.

The BIA sustained Chen's appeal in 1988 and granted asylum, but the Immigration and Naturalization Service (INS) moved for reconsideration.

Taking a second look at the case, the BIA agreed with the immigration judge that Chen had not met the burden of establishing a well-founded fear of persecution. "While religious freedom as we understand it may still not be enjoyed in China, we are not persuaded that a reasonable person in the respondent's circumstances would have a well-founded fear of persecution on account of his religion, if returned to the China

of 1989."

But the BIA nevertheless found Chen statutorily eligible for asylum based solely on his past persecution, and concluded that he should be granted asylum. "Given what happened to his father, and given the manner in which he spent much of his boyhood, his fear of repatriation is understandable."

In a separate concurring opinion, Board member Michael J. Heilman took the State Department to task for writing an advisory opinion stating that Chen did not have a well-founded fear of persecution. He said that information in the State Department's Bureau for Human Rights and Humanitarian Affairs "Country Reports" show that prior to 1981 religious worship was forbidden and that almost all places of worship were confiscated and turned into factories or government or military facilities and that at present persons who practice any religion are discriminated against. He cited information from the BHRHA country reports on arrests of clergy since 1981 and on other repressive measures taken against religious activities. Heilman said, "I for one will express serious doubts as to the extent of religious freedom in China at present, and no great confidence that the very recent past will not be repeated."

Heilman also criticized the INS, saying that he would not have granted its motion to reconsider.

The INS had stated that it could not "believe that Congress intended that past persecution could be the basis" for an asylum grant. Heilman said, "There was no reference to legislative history or any other authority for this proposition."

Heilman pointed out that the 1951 Convention Relating to the Status of Refugees--on which the Refugee Act is based--dealt primarily with refugees who were victims of past persecution in Europe, which had ceased with the defeat of the Axis powers.

He noted that the United States has been operating an extensive refugee program for Cambodians "whose claim to refugee status is solely based on persecution by the regime of Pol Pot, which was driven out of power in December 1978 by a Vietnamese invasion."

Refugees Entering the United States via a Third Country In another case involving an asylum applicant from outside the

Western Hemisphere, the BIA, on July 13, found that an asylum applicant who was firmly resettled in Israel was not automatically ineligible for a grant of asylum.

In Matter of Soleimani, the BIA ruled that an Iranian Jew who fled to Israel, where she stayed with family members for nearly a year, was not ineligible for asylum on account of an offer of firm resettlement in a third country.

While the law does preclude admission to the United States of refugees who have been firmly resettled in a third country and regulations bar INS district directors from granting asylum to applicants who have been firmly resettled elsewhere, the BIA found no legal or regulatory bar to an immigration judge or the BIA itself exercising its discretion to grant asylum in such cases.

The BIA noted that firm resettlement in a third country "would normally preclude a grant of asylum as a matter of discretion, unless the alien can demonstrate countervailing equities in his favor that are compelling in nature."

In Soleimani's case, the Board ruled that asylum was warranted as a matter of discretion, because "her ties to Israel... should be balanced with the remaining factors which include the facts that her ties to Israel are somewhat limited, that she came to this country by legal means and applied for asylum while in a legal status here, that there is no evidence that she engaged in fraud in order to circumvent orderly refugee procedures, and that there are no other factors adverse to the respondent in the record."

In their digest of the case, the editors of the immigration weekly, Interpreter Releases, noted that the case reinforces the notion that merely passing through a third country on the way to the United States does not by itself render an alien ineligible for asylum, even if the alien was offered permanent residence in a third country. "This would seem to apply not only to persons who stop in Israel before coming to the U.S.," said the editors, "but also to Central Americans who pass through Mexico on their way to the U.S."

BIA and Federal Courts Continue to Tangle over Central American Asylum Cases The

U.S. Court of Appeals for the Ninth Circuit has again challenged the BIA's interpretation that the asylum standard rarely addresses violence arising from civil war situations. On August 24, the Ninth Circuit ruled that the BIA should not have dismissed an appeal by a Salvadoran who claimed to have fled based on a fear that either the guerrillas or the government would kill him if he returned.

The case, Maldonado Cruz v. INS, involves a Salvadoran who was kidnapped by the guerrillas in 1983 and forced to participate in a guerrilla operation against his village. A few days later, he escaped. Neighbors and family told him that the guerrillas had come to his home several times looking for him. He stated that he feared that the guerrillas would kill him for having deserted them and that the military forces of El Salvador would persecute him because of the "perceived political opinion" that he is a member of the guerrillas. Maldonado-Cruz claims political neutrality in the conflict.

In 1987, an immigration judge denied asylum. On appeal, the BIA agreed, arguing

SEGUNDO MONTES MOZO IGNACIO MARTIN-BARO

Segundo Montes and Ignacio Martin-Baro, Jesuit priests well known in the United States for their research on Salvadoran refugees in this country, were murdered in El Salvador during the early morning hours of October 16. They were among six priests and two others killed at their home, reportedly by uniformed men.

On November 1, Montes, who co-authored Salvadoran Migration to the United States: An Exploratory Study (see Refugee Reports, Vol. IX, No. 9), had been in Washington, D.C. to receive a human rights award presented by the Central American Refugee Center (CARECEN). Sylvia Rosales, until recently executive director of CARECEN, told the Washington Post that she had spoken by phone with Montes only a few days before he was killed. When Rosales expressed concern for his safety, she says that Montes replied: "If we have to die, we have to die. That is our mission--to die for the poor."

that a threat to harm or kill a deserter from a guerrilla organization does not constitute persecution. The BIA said that such a threat "is part of a military policy of that group, inherent in the nature of the organization, and a tool of discipline; thus, the threat is neither an act of persecution nor evidence of persecution by the guerrilla organization on account of political opinion." (See Refugee Reports, Vol. IX, No. 11.)

Political Opinion Essentially, the BIA had narrowed the argument, saying that the facts of the case were not at issue, but only "whether the harm the respondent fears is on account of 'political opinion'" as the term is used in the Refugee Act. That law establishes the standard of asylum eligibility as "persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

The Ninth Circuit found that "choosing to remain neutral is no less a political decision than choosing to affiliate with a particular political faction" and that Maldonado's refusal to join the guerrillas "was a manifestation of his neutrality, which is a recognized political opinion."

The court found that his fear of the Salvadoran military was similarly on account of political opinion. "Maldonado had been falsely accused of being associated with the guerrillas, and the El Salvador authorities threatened to kill him because of this report."

Although concurring with the majority decision, Judge Clifford J. Wallace dissented on the credibility question, citing "significant factual inconsistencies in his story." He said that the case should be remanded for a credibility determination. But the majority disagreed, saying that the "the basic facts are not in dispute," and that the immigration judge and BIA had denied asylum as a matter of law rather than a question of fact.

BIA Draws a Line around the Ninth Circuit

The BIA had clearly indicated its disagreement with the Ninth Circuit on an earlier asylum case involving a claim of political neutrality, Bolanos-Hernandez v. INS. Although Maldonado-Cruz lived in California's

Ninth Circuit and was apprehended there, the INS transported him to Louisiana and Texas, where he was detained and placed in deportation proceedings.

When it dismissed Maldonado-Cruz's asylum claim based on political neutrality, the BIA said, "We do not find it appropriate to apply the Ninth Circuit's decision in that case [Bolanos-Hernandez] in the Fifth Circuit, the circuit where this case arises. We know of no Fifth Circuit case which agrees with the rationale of Bolanos-Hernandez."

The Ninth Circuit was not amused. "In addition to the general policy of preventing forum shopping by the INS," said the court, "the facts of this case make it particularly appropriate to apply Ninth Circuit cases." The court noted, "Apart from the government's unilateral action in transporting him to Louisiana and Texas for deportation proceedings, Maldonado had no contacts with the Fifth Circuit."

Kate McGrath, an attorney with the Asylum Appeals Program of the San Francisco Lawyers' Committee for Urban Affairs, and a consultant on the Maldonado-Cruz case, said the decision was "a very useful victory for asylum seekers in the Ninth Circuit, and may serve as a first blow to the EOIR's restrictive view of political opinion in the context of civil war in other circuits as well." The EOIR is the Executive Office of Immigration Review, the federal agency within the Justice Department that includes immigration judges and the BIA.

BIA Grudgingly Grants Asylum to Guatemalan in Ninth Circuit

A case decided on August 3, Matter of Juan, touches on the issues raised in all of the cases discussed above: 1) safe haven in a third country--in this case Mexico; 2) past persecution; 3) political neutrality as political opinion; 4) imputed political opinion in civil strife; and 4) the happenstance of whether or not a case arises in the Ninth Circuit.

In March 1982, government soldiers came to the Kanjobal Indian village of Los Moleños San Rafael in Guatemala with a list of names of people who allegedly had given corn to the guerrillas. The name of the father of Juan, a fifteen-year-old boy, was on that list. The soldiers took Juan's father from their home. The next day, his decapitated body was found.

The next evening, the guerrillas entered the same village and abducted Juan's mother. Before she was taken, she told her son to hide. The next day, she was found dead.

Juan testified that both of his parents were individually singled out and that to his knowledge no other villagers were killed on the days his father and mother were killed.

The day after his mother's murder, Juan began his journey out of Guatemala. After traveling through Mexico for a month, he entered the United States illegally in April 1982.

Juan testified that if he is returned to Guatemala he is afraid that he will be killed by either the guerrillas or government soldiers and that he "has no one or anything to return to in Guatemala."

The State Department advisory opinion said that he had failed to establish a well-founded fear of persecution in Guatemala.

The immigration judge agreed, saying that Juan had failed "to show that he would be subjected to persecution in Guatemala." The immigration judge accepted the credibility of Juan's testimony, but did not find evidence of any "systematic persecution of the respondent or his family," and was "satisfied that the respondent could have remained" in Guatemala with his aunt.

The immigration judge also said that the 15-year-old had reached a "safe haven" in Mexico before entering the United States.

Ninth Circuit Ruling Applies In sustaining Juan's appeal of his denial, the BIA was careful to note that the case arose within the jurisdiction of the Ninth Circuit and specifically noted Ninth Circuit opinions. For example, it said, "The Ninth Circuit has noted the relevance...of violence directed against an alien's family members" and that the Ninth Circuit has held that the "fact that there have been a number of threats or acts of violence against members of an alien's family is sufficient to support the conclusion that the alien's life or freedom is endangered." The BIA observed that "the Ninth Circuit has also noted that evidence of abuses committed by a government against its civilian population strengthens the significance of evidence of a specific threat to an individual respondent's life or freedom."

After cataloguing Ninth Circuit opinions

on similar asylum claims, the BIA said that the determinative issue in the claim is whether Juan had adequately demonstrated that his "fear of harm" was on account of any of the five statutory grounds of race, religion, nationality, membership in a particular social group, or political opinion.

"The record does not reflect that the respondent belonged to any political group or opposition group in Guatemala," said the BIA. "Likewise, the record does not establish that the respondent affirmatively chose to remain neutral by not joining either the guerrillas or the government forces."

The BIA characterized Juan's claim as being based on "imputed political opinion" and the fact that he is a Kanjobal Indian, a group that has been subjected to widespread violence by the combatant forces.

The BIA's decision carefully limits itself to Ninth Circuit precedents. "On the record before us under controlling Ninth Circuit precedent decisions, we find a reasonable basis for the respondent's fears of governmental persecution on account of imputed political opinion arising from family ties. Accordingly, while we would not find that the respondent has demonstrated a 'clear probability' of persecution if he returns to Guatemala, we find that he has adequately demonstrated his eligibility for asylum under the less stringent requirements of the 'well-founded fear' standard."

Heilman Dissents on Question on Political Opinion Board member Michael Heilman--with a concurrence from Fred W. Vacca--dissented from the majority opinion that the father had an imputed political opinion. "The only reason to speak in terms of imputed political opinion," he said, "is to 'pigeon-hole' the case within one of the five categories set forth in the law for asylum."

"It seems a bit absurd," said Heilman, "in these circumstances to try to divine some 'imputation' of opinion, as if the individual's political views would save or condemn him. If the respondent's father had not been taken, it is more than likely that someone else would have sufficed." He said that the government was more interested in "making examples and in intimidating the population" than in persecuting anyone for their opinion.

Heilman said that an imputed political

opinion on the part of the mother was even less likely. Heilman included in his dissent imaginary conversations that he thought both the father and mother might have had with their murderers.

Heilman said that he "envision[s] her telling the guerrillas that she did not want to give them the money because she was afraid the government would find out about it and kill her, or that she was too poor to aid them because her husband had been killed by the soldiers."

But, wrote Heilman, "It is very probable that they [the guerrillas] listened to some such explanation and then killed her anyway, because it was in their interest to up the ante, so to speak."

Heilman concluded, "To search for 'political opinion,' 'imputed' or actual, in these circumstances seems a useless and perhaps ultimately fallacious approach."

Heilman said that the hidden agenda of the Ninth Circuit is to rest asylum determination on the possibility of summary, extra-legal harm being inflicted, rather than on a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. He cited several Ninth Circuit decisions involving Salvadorans and Guatemalans, which he said used this reasoning, and called it a "ludicrous" approach.

"If the claimed agent of persecution is actually indifferent to any person's opinion, and inflicts harm more as a matter of habit or policy, or just because of viciousness, then it does the victim little good to engage in completely theoretical discussions of 'imputation' of political opinion," he said.

Carol L. Wolchok, who argued Juan's case before the BIA on behalf of the American Civil Liberties Union, said that it was Heilman himself who was engaging in unwarranted speculation about the motives of persecutors.

"I am disappointed," she said, "that Mr. Heilman would look at a case, such as Juan's, where asylum could be granted on any number of grounds, including past persecution for having been orphaned at the age of 14 by the political murder of both parents, and speculate about other reasons to deny asylum."

Wolchok said, "The Ninth Circuit is

teaching the BIA to look at asylum claims with a new eye. I look forward to the day when the BIA and the other circuits will share the Ninth Circuit's approach."

Resources

WHY SOMALIS FLEE

Robert Gersony, whose report for the U.S. State Department on the role of the Mozambican National Resistance (RENAMO) in the Mozambican conflict led to international condemnation of that group's actions towards civilians, has written a valuable new report on Somali refugees and displaced people and their experiences in the conflict in northern Somalia. The report, Why Somalis Flee, which was also written for the State Department, is based on Gersony's interviews with more than 300 Somali refugees and internally displaced people, as well as with government and international personnel in Somalia and Ethiopia.

According to the report, "The Somali Armed Forces appears to have engaged in a widespread, systematic, and extremely violent assault on the unarmed civilian Issak population of northern Somalia." The report adds that Ethiopian refugees who were living in refugee camps in northern Somalia were "routinely and forcibly conscripted" by the Somali government and that many were induced to participate in the conflict.

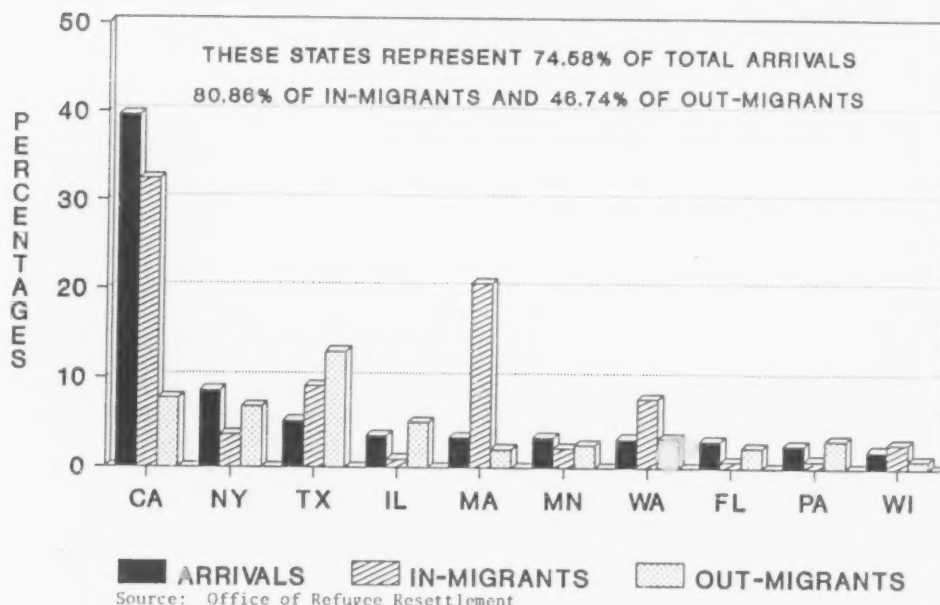
Copies of this report, which could prove particularly useful to lawyers representing Somali asylum seekers, are available free of charge from the Bureau for Refugee Programs, RP/PA, Room 1282 SA-1, Department of State, Washington, DC 20520. (202) 663-1026.

NEW USCR ISSUE PAPER ON SOUTHERN AFRICA

In December, Refugee Reports subscribers will receive a new U.S. Committee for Refugees Issue Paper. Peace or Terror: A Crossroads for southern Africa's Uprooted is based on a USCR site visit to the region. For bulk orders, please contact Carolyn Moore at USCR (202) 347-3507.

REFUGEE ARRIVALS AND SECONDARY MIGRATION TEN MAJOR ARRIVAL STATES - % OF TOTALS

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December 29, 1989

1989 STATISTICAL ISSUE

This is our special year-end statistical issue. In addition to tables and graphs on international and domestic refugee programs, the issue includes the index for Refugee Reports for Volume X, 1989. This issue begins with updates of refugee news.

° In the early morning hours of December 12, Hong Kong officials removed 51 Vietnamese asylum seekers from Phoenix House detention center, forced them to board a chartered Cathay Pacific jet and flew them back to Hanoi. This marked the first time in 15 years of Vietnamese boat flows, totalling at least 1.5 million people, that any have been involuntarily repatriated.

Following a wave of international protest, the British government agreed to postpone any further forced returns, at least until after the Christmas holidays. Among those criticizing Britain's actions were the U.S. government, members of Congress, refugee and human rights groups, British opposition parties, the European Parliament, and Pope John Paul.

A White House spokesman said that the United States "deeply regrets" the incident and supports voluntary repatriation. Congressional reaction was much sharper. "It's a disgrace," said Sen. Claiborne Pell (D-R.I.), chairman of the Senate Foreign Relations Committee.

"I am appalled that a group of Vietnamese were forced back to the country they left with such pain and difficulty," said Rep. Patricia Schroeder (D-Colo.). "At the same time, approximately 1,000 voluntary repatriates are awaiting return."

British Foreign Secretary Douglas Hurd said the forced return was necessary as a deterrent "to show people who may even now be planning to come in the spring, when the winds change and the season begins, that it is not a happy voyage."

Witnesses in Hanoi described the group of repatriates as looking tired and depressed as they were transported to a reception center six miles from the airport. They later returned to their home provinces of Haiphong and Quang Ninh in northern Vietnam.

Vietnamese officials insisted that, despite their government's repatriation agreement with Britain, Vietnam is opposed to forced repatriation. "Now we

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are checking with these 51 people," said Foreign Minister Nguyen Co Thach. "If there are any who are against repatriation, we will ask the British to take them to Hong Kong. If they refuse to take them to Hong Kong, we will stop our cooperation for receiving the voluntary returnees."

° In the last few weeks, the Khmer Rouge have moved at least 1,500 Cambodian refugees out of camps on the Thai border and into Cambodian territory recently seized from the Phnom Penh government, according to diplomats and relief workers interviewed by the New York Times.

More than 1,000 people have been moved from a camp called Khao Din on the so-called "hidden border," which is inaccessible to relief workers. Another 500 have been moved from O'Plong Chae. Both camps are satellites of the main Khmer Rouge camp, Site 8.

° The Office of Management and Budget has rejected a request by the State Department to seek \$70 million in supplemental funding for refugee admissions in FY 90, according to a government source. Current funds for Soviet admissions will be exhausted by the end of January, the source said.

Congress appropriated \$370 million to the State Department for refugee migration and assistance, which was the amount requested by the Administration in early 1989 to provide relief aid to millions of refugees overseas and to admit an estimated 84,000 refugees in FY 90. Ultimately, however, President Bush authorized the admission of 125,000 refugees in FY 90, of whom 111,000 were to be fully federally funded.

The State Department reportedly is exploring three possible alternatives in regard to Soviet admissions: (1) reprogram funds from other accounts; (2) use the Emergency Refugee Migration and Assistance fund, which normally is used for overseas disaster relief and currently holds \$50 million; or (3) halt movement of federally funded Soviet refugees for the rest of the fiscal year.

° The number of Salvadorans seeking to leave El Salvador has increased following the November FMLN offensive.

According to the New York Times, the head of El Salvador's immigration service says that applications for Salvadoran passports have jumped from 400 per day before

the offensive to more than 1,500 per day at present. In Guatemala, the paper adds, immigration officials report that more than 5,000 Salvadorans have legally entered the country in search of refuge, though other sources claim that many more have entered without proper travel documentation.

A UNHCR spokesperson says that while a significant number of Salvadorans do appear to have gone to Guatemala, most appear to be individuals associated with religious groups in San Salvador who for the moment are staying with friends or church groups in Guatemala City. UNHCR adds that there has not been any mass movement across the border, but that approximately 1,000 Salvadorans have approached UNHCR in Guatemala for interviews for determination of refugee status. The UNHCR office in Guatemala is, however, preparing contingency plans for responding to an increase in asylum applicants.

In Mexico, the Times says that immigration authorities are increasingly cracking down on Central Americans attempting to cross into Mexico seeking to reach the United States. On December 12, Mexican authorities removed 119 undocumented Central Americans from a train bound for the border city of Mexicali. Just days later, 82 other Central Americans were removed from a bus in Veracruz.

Mexico also appears to be stopping more Central Americans along its border with Guatemala. In August, according to the Washington Post, Mexican authorities reported having already turned back 46,000 Central Americans who attempted to enter the country from Guatemala without inspection this year. That figure was higher than the combined total for the three previous years.

° More than 5 million people in the northern Ethiopian provinces of Eritrea and Tigray continue to face the prospect of famine, but international aid lags. Relief workers say that in some areas people are already without food and could begin to starve in January. An estimated 50,000 Tigrayans have already left severely affected areas in eastern Tigray and moved west. If more food does not reach Tigray soon, there could be a large-scale influx into Sudan beginning in the next few weeks. The total amount of food pledged for famine vic-

tims so far is only one third of the total needed to reach those at risk.

° The World Food Program says that "a serious human tragedy" could develop in Mozambique if more food aid to that country is not forthcoming. Pledges of food aid for 1989 were below the anticipated need, and many pledges have yet to be fully honored. Much of Mozambique's large internally displaced population, estimated at 1.7 million, is dependent on international food aid.

° French Prime Minister Michel Rocard announced on December 6 the creation of a committee comprised of top cabinet officials to reduce the number of asylum seekers seeking refuge in France. The Interior Minister said he planned "a real interdiction policy" to keep out illegal immigrants. The government move came on the heels of electoral gains by the right-wing National Front, which has taken a strong stand in opposition to immigration. Prime Minister Rocard said, "France can no longer be a land of immigration."

In the meantime, West Germany, on December 14, pulled out of the Schengen Group, which included France and several other West European nations working towards the elimination of border controls and a common policy on asylum seekers. Nevertheless, Justice and Interior Ministers from the 12-nation European Community, the following day, December 15, said that a draft convention on controlling external borders and asylum policy would be ready in 1990.

° On November 22, the State Department announced that the United States would no longer register Polish and Hungarian refugee applicants in Western Europe for U.S. refugee resettlement and that the United States would only interview for admission Polish and Hungarian applicants who had already registered for resettlement and who had close family ties to the United States.

The regional ceiling for East European refugees in FY 90 allows for the admission of 6,500. There are currently about 20,000 applicants for those places. State Department spokeswoman Margaret Tutwiler told the Washington Post, "Unless we change our present policy and practices, we will be unable this year to process and admit other deserving applicants from such countries as Bul-

garia and Romania." The "democratic evolution" of Poland and Hungary was cited as a reason for the decision.

Robert DeVecchi, chairman of InterAction's Committee on Migration and Refugee Affairs, wrote to President Bush calling the decision "precipitous" and one that would result in only about 1,000 Polish and Hungarian refugees being admitted to the United States. The remaining 19,000 would be disqualified, said DeVecchi, "and face becoming burdens on their countries of first asylum, or being deported back to their homelands." Among other things, InterAction requested additional time to allow Hungarians and Poles to register for U.S. resettlement.

° On November 30, President Bush vetoed legislation that would have permitted Chinese students now in the United States to adjust to permanent resident status without first returning to China for two years, as is generally required by J-1 visas. The legislation, H.R. 2712, known as the Pelosi bill, had passed the House by a 403-to-0 vote and the Senate by a voice vote (see Refugee Reports, Vol. X, No. 7).

"Overriding the President's veto will be the first item of business on the Congressional agenda when we return in January," House Majority Leader Richard A. Gephardt (D-Mo.) told the Washington Post.

The Administration's action came in response to pressure from the government of the People's Republic of China, which had urged the President to veto the measure.

Bush said, however, that the veto was an effort to prevent "Congressional micromanagement of foreign policy." At the same time, he made a point of saying that he intended to offer the same protection to Chinese students administratively, thus rendering Congressional action unnecessary.

The President said, "Today, I reemphasize my commitment--as I have told Chinese students in America, and as I have told Congress--to never allow any action that would force the return of Chinese students if their lives or liberty are at risk."

Bush announced that he had instructed Attorney General Dick Thornburgh "to take the steps necessary to extend administratively to all Chinese students in the United States the same benefits that H.R. 2712 would have extended."

Bush also instructed the Attorney

General to grant asylum in cases involving forced abortion and coerced sterilization.

On December 1, Thornburgh waived the two-year residency requirement for Chinese aliens who, as of June 5, 1989, were present in the United States. He also instructed the INS to grant all Chinese aliens the necessary employment authorization.

In addition, the Attorney General determined that asylum applicants who establish that they have refused to abort or be sterilized "will now be considered to have established a well-founded fear of persecution on the basis of political opinion."

On December 5, Commissioner McNary met with private groups concerned with Chinese students, including Refugee Reports, saying, "We want to get the word out--No one should be anxious; no one is in jeopardy."

He said that someone in each INS district office would serve as a liaison with the Chinese community to provide assistance in implementing the policy.

McNary said, "There is not going to be anybody turned down on anything unless we know about it here in the Central Office."

Chinese students with J-1 visas will not be required to apply for the waiver. In applying for benefits, such as work authorization, or for adjustment to F visas or other status, they will, in effect, be granted the waiver.

* INS Commissioner Gene McNary held two press conferences in early December in which he said that new asylum regulations "may be forthcoming soon," and in which he called for better quality adjudication and streamlined deportation procedures.

His most controversial remark was the suggestion that geographical limits be placed on work authorization for asylum seekers, forcing them out of cities such as Miami and San Diego, which have large concentrations of new immigrants. Nongovernmental organizations questioned the legality, and the wisdom, of the suggestion.

McNary said that he had no plans to change INS policy on interviewing Haitians aboard the Coast Guard cutters that interdict and return them to Haiti.

McNary also said that he plans to travel to Moscow and Rome in January to review procedures for Soviet refugee applicants. He said that some 45,000 Soviet Jews in Rome are "unlikely to be turned down" because

they had severed their ties with the USSR.

A more complete account of the press conferences can be found in the December 18 issue of Interpreter Releases.

* Although the number of people apprehended by the Border Patrol on the southern border dropped by 5 percent in FY 89 from the previous year, the number of Salvadorans caught trying to enter the country rose by 41 percent; the number of Guatemalans apprehended rose by 45 percent; and the number of Nicaraguans caught rose by 185 percent. Mexicans comprised more than 90 percent of the total apprehensions. Border Patrol apprehensions for the past three years are:

	FY 87	FY 88	FY 89
Salvadorans	9,780	14,322	20,242
Guatemalans	6,722	9,246	13,431
Nicaraguans	4,819	3,280	9,348
Mexicans	1,139,606	949,722	865,290
All	1,190,488	1,008,143	954,119

* INS Commissioner Gene McNary issued a directive on November 27 to all INS offices, as well as the Border Patrol, barring anyone from agreeing to be interviewed by the media or publicly speaking without first clearing their remarks with INS's Office of Congressional and Public Affairs, which, in turn, will need to obtain clearance from the Commissioner's office. The memo says, "Before clearance will be granted, the text or an outline of any remarks to be made, including responses to anticipated questions, must be sent to Congressional and Public Affairs."

Reader Exchange

* The Office of Refugee Resettlement is holding a hearing on January 31 on the service needs of Vietnamese former reeducation detainees. Some 9,000 former reeducation prisoners are expected to arrive in the United States during FY 90.

The hearing will be held at the Hubert Humphrey Building, 200 Independence Ave., SW, Room 800, of Washington, DC from 9 a.m. to 5 p.m. Each speaker will be allotted 5 minutes, and is requested to submit statements of 1,200 words or less, by January 16, to "Hearing", ORR, 370 L'Enfant Promenade, SW, 6th floor, Washington, DC 20447.

INDOCHINESE REFUGEE ACTIVITY
Camp Populations By Ethnic Group*
As of September 1989

COUNTRY	CAMP	LAO	HIGHLAND	KHMER	VIETNAMESE	TOTAL
HONG KONG	Argyle St. Camp 3*	0	0	0	1,668	1,668
	Hei Ling Chau*	0	0	0	3,451	3,451
	Chi Ma Wan*	0	0	0	3,679	3,679
	Erskine*	0	0	0	1,802	1,802
	Kai Tak North	0	0	0	2,388	2,388
	Other*	0	0	0	7,042	7,042
	San Yick	0	0	0	2,642	2,642
	Sham Shui Po*	0	0	0	6,905	6,905
	Shek Kong*	0	0	0	7,006	7,006
	Whitehead*	0	0	0	14,074	14,074
	Lowu	0	0	0	2	2
	Pillar Point	0	0	0	2,081	2,081
	Tuen Mun	0	0	0	3,551	3,551
	VBP Departure Center	0	0	0	52	52
	Victoria Remand Cen.	0	0	0	46	46
	SUBTOTAL	0	0	0	56,389	56,389
INDONESIA	Galang--1st Asylum	0	0	3	5,274	5,277
	Outer Islands	0	0	0	49	49
	SUBTOTAL	0	0	6	5,323	5,326
JAPAN	Japan	0	0	0	2,701	2,701
KOREA	Korea	0	0	0	289	289
MACAU	Kaho	0	0	0	401	401
MALAYSIA	Marang	0	0	0	74	74
	Pulau Bidong	0	0	0	14,356	14,356
	Sungei Besi	0	0	0	6,000	6,000
	SUBTOTAL	0	0	0	20,430	20,430
PHILIPPINES	Bataan ODP	0	0	0	7,275	7,275
	Bataan RPC	664	0	324	5,011	5,999
	Palawan	0	0	0	9,605	9,605
	PRTC	0	0	0	266	266
	SUBTOTAL	664	0	324	22,157	23,145
SINGAPORE	Hawkins Road	0	0	0	769	769
THAILAND ^{a/}	Ban Nam Yao	0	1,756	0	0	1,756
	Ban Thad	0	0	3,174	146	3,320
	Ban Vinai	176	33,370	0	0	33,546
	Bangkok Transit	8	3	9	9	29
	Chiang Kham	75	14,114	0	0	14,189
	Kapcherng	0	0	975	0	975
	Khao I Dang	0	0	11,572	0	11,572
	Napho	13,897	330	0	0	14,227
	Phanat Nikhom RPC	751	1,691	1,631	0	4,073
	Phanat Processing	1,086	2,976	1,359	12,366	17,787
	Phanat Transit	19	5	18	1,355	1,397
	SUBTOTAL	16,012	54,245	18,738	13,876	102,871
TAIWAN	Taiwan	0	0	0	167	167
GRAND TOTAL		16,676	54,245	19,065	122,502	212,488

^{a/} Thailand numbers do not include more than 300,000 Cambodian "displaced persons" on the Thai-Cambodian border.

*These detention centers hold Vietnamese who arrived in Hong Kong after a cutoff date of June 16, 1988. Total for Sham Shui Po includes 2,439 pre-June 16 arrivals.

Source: Bureau for Refugee Programs, Department of State.

REFUGEE PROCESSING PRIORITIES BY REGION,
AS OF DECEMBER 1989

	<u>P-1</u>	<u>P-2</u>	<u>P-3</u>	<u>P-4</u>	<u>P-5</u>	<u>P-6</u>
<u>AFRICA</u>						
Africans in Sudan	X	X	X	X	X	
Africans Elsewhere in Africa	X	X	X	X	X	X
Africans in Europe	<u>a/</u>	<u>a/</u>	<u>a/</u>	<u>a/</u>	<u>a/</u>	
<u>EAST ASIA</u>						
Cambodians	X	X	X	X	X	
Highland Lao	X	X	X	X	X	
Lowland Lao	X	X	X	X	X	
Vietnamese	X	X	X	X	X	<u>b/</u>
<u>EASTERN EUROPE/SOVIET UNION</u>						
	<u>c/</u>	<u>c/</u>	<u>c/</u>	<u>c/</u>	<u>c/</u>	
<u>NEAR EAST/SOUTH ASIA</u>						
	X	X	X	X		
<u>LATIN AMERICAN/CARIBBEAN</u>						
Cubans	<u>d/</u>	<u>e/</u>	<u>e/</u>	<u>e/</u>	<u>e/</u>	<u>e/</u>
Non-Cubans	X	X	X	X	X	

NOTES

a/ P-1 to P-5 processing is available only for those who were in Western Europe before January 1, 1988.

b/ P-6 processing is available to all pre-cutoff date Vietnamese boat people in Southeast Asia.

c/ P-1 to P-5 processing is available for Hungarians and Poles who registered with a voluntary agency or with the UN High Commissioner for Refugees before November 22, 1989.

d/ P-1 processing is available for current and former political prisoners and their close family members in Cuba and in third countries.

e/ Limited P-1 to P-6 processing is available to Cubans in third countries, with private sponsorship arranged by the Cuban American National Foundation.

DESCRIPTION OF U.S. REFUGEE PROCESSING PRIORITIES

PRIORITY ONE: COMPELLING CONCERN/INTEREST: Exceptional cases (a) of refugees in immediate danger of loss of life for whom there appears to be no alternative to resettlement in the U.S., or (b) of refugees of compelling concern to the U.S., such as former or present political prisoners and dissidents.

PRIORITY TWO: FORMER U.S. GOVERNMENT EMPLOYEES: Refugees employed by the U.S. government for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S. government employees, but who for at least one year were so integrated into U.S. government offices as to have been in effect and appearance U.S. government employees.

PRIORITY THREE: FAMILY REUNIFICATION: Refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the U.S. (The status of the anchor relative in the U.S. must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, or asylee.)

PRIORITY FOUR: OTHER TIES TO THE UNITED STATES:

FOR EASTERN EUROPE, LATIN AMERICA, AFRICA: (a) refugees employed by U.S. foundations, U.S. voluntary agencies, or U.S. business firms for at least one year prior to the claim for refugee status, and (b) refugees trained in the U.S. or abroad under U.S. auspices.

FOR EAST ASIA: (a) and (b) as above, plus (c) persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S. government policies or U.S. government supported programs, (d) persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

FOR NEAR EAST/SOUTH ASIA: (a) and (b) as above, plus (c) refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination (such as Iranian Baha'is, Jews, Christians, and Zoroastrians), including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies, or councils; (d) refugees who have become targets of persecution because of a perceived identification with the U.S. or the other nations of the West (including Israel); (e) refugees who because of their religious affiliation have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated, or have been denied pensions that would otherwise be available.

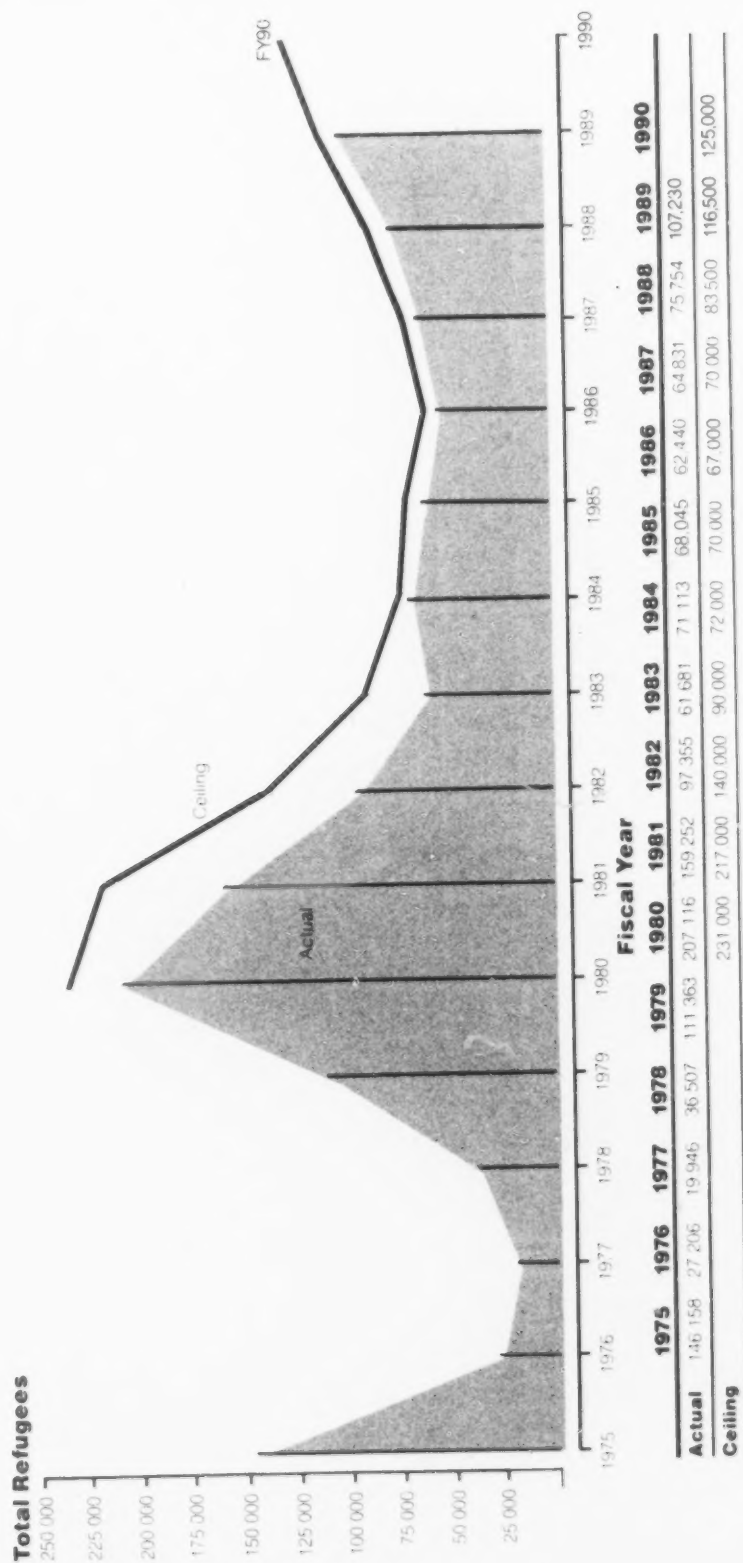
PRIORITY FIVE: ADDITIONAL FAMILY REUNIFICATION: Refugees who are married sons or married daughters, siblings, grandparents, or grandchildren of persons in the U.S., or other more distantly related individuals who are part of the family group and dependent on the family for support.

FOR EAST ASIA, add the following: (a) persons who have not yet reached their eighteenth birthday and who have relatives in the U.S. and no closer relatives in another country outside Indochina.

PRIORITY SIX: OTHERWISE OF NATIONAL INTEREST: Other refugees in specified regional groups whose admission is in the national interest.

FOR EAST ASIA, add the following: (a) persons who have not reached their eighteenth birthday, who are not accompanied by an older relative or guardian in the camps, and whose parents or guardians are deceased or did not escape, and for whom the UNHCR has specifically requested resettlement assistance. Such persons must not have relatives in another resettlement country.

ACTUAL REFUGEE ADMISSIONS TO THE U.S. AND CEILINGS ON REFUGEE ADMISSIONS, FY 75-89
 (As of September 30, 1989)
 (Chart 1)



ACTUAL REFUGEE ADMISSIONS TO THE U.S. AND CEILINGS ON REFUGEE ADMISSIONS, FY 75-89
(As of September 30, 1989)
(Chart 2)

	<u>FY 75 - FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83a/</u>	<u>FY 84b/</u>	<u>FY 85b/</u>	<u>FY 86</u>	<u>FY 87b/</u>	<u>FY 88b/</u>	<u>FY 89b/</u>	<u>FY 90</u>	<u>TOTAL</u>
AFRICA (ACTUAL ADMISSIONS)	955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	1,588	1,922			20,567
(CEILINGS)													
ASIA c/	254,095	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,112	35,015	45,684		930,158
	169,300	168,000	96,000	64,000	64,000	52,000	50,000	45,500	40,500	38,000	50,000	51,500	
EASTERN EUROPE	11,096	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	7,818	8,948		99,408
	5,000	4,500	11,000										
SOVIET UNION	56,989	28,444	13,444	2,756	1,409	715	640	787	3,694	20,421	39,553		168,852
	13,000	13,000	20,000	15,000	11,000	10,000	10,000	9,500	12,400	30,000	50,000	56,500	
LATIN AMERICA	19,000	6,662	2,017	602	668	160	138	173	315	2,497	2,605		34,837
	20,500	4,000	3,000	3,000	2,000	1,000	3,000	3,000	1,000	3,500	3,500	3,500	
NEAR EAST AND SOUTH ASIA	2,231	3,829	6,369	5,465	5,246	5,994	5,994	5,998	10,107	8,415	6,980		60,634
	3,500	4,500	6,500	6,000	5,250	6,000	6,000	6,000	10,200	9,000	7,000	6,500	
UNALLOCATED RESERVE									0	733	1,538		2,271
									4,000	4,000	4,000	4,000	
TOTAL	341,180	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,828	76,487	107,230		1,316,727
	231,300	217,000	140,000	90,000	90,000	72,000	70,000	67,000	70,000	87,500	116,500	125,000	

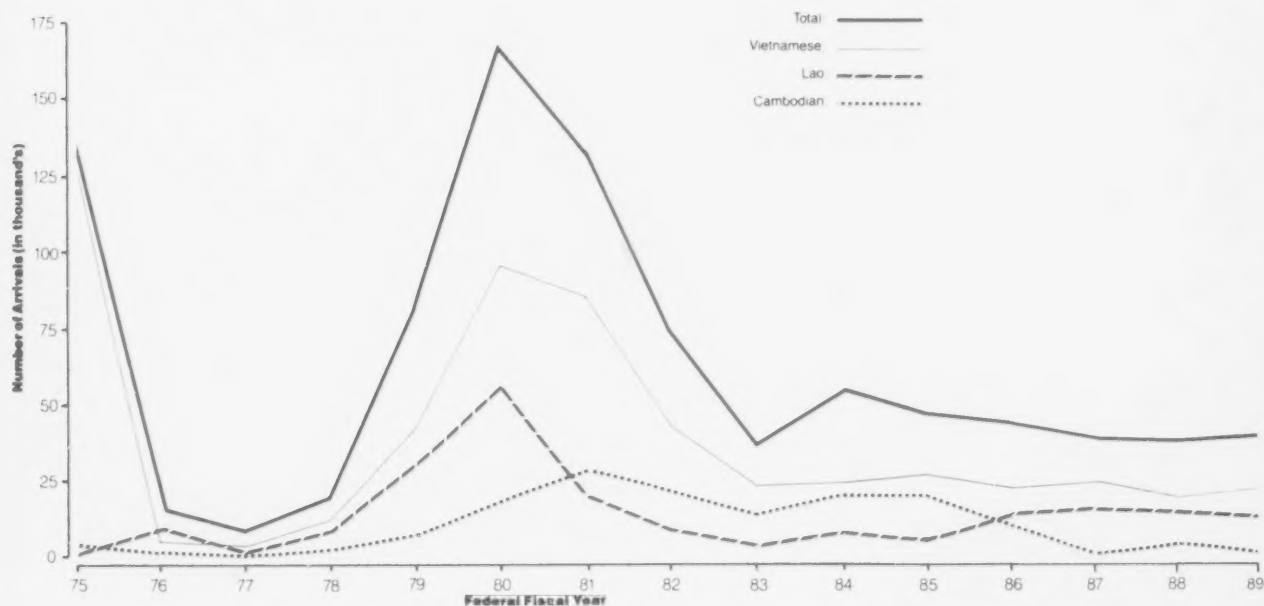
a/ From FY 83 on, the Eastern Europe ceiling has been combined with the ceiling for the Soviet Union.

b/ This chart shows the adjusted regional ceilings that were established at mid-year consultations in FY 84, FY 85, FY 87, FY 88, and FY 89. The overall annual ceilings did not change, except in FY 88 and FY 89.

c/ Ceilings and actual admissions figures for Asia include both first asylum resettlement and the Orderly Departure Program from Vietnam.

Source: Bureau for Refugee Programs/U.S. Department of State.

SOUTHEAST ASIAN REFUGEE ARRIVALS IN THE UNITED STATES BY NATIONALITY, FY 75-89

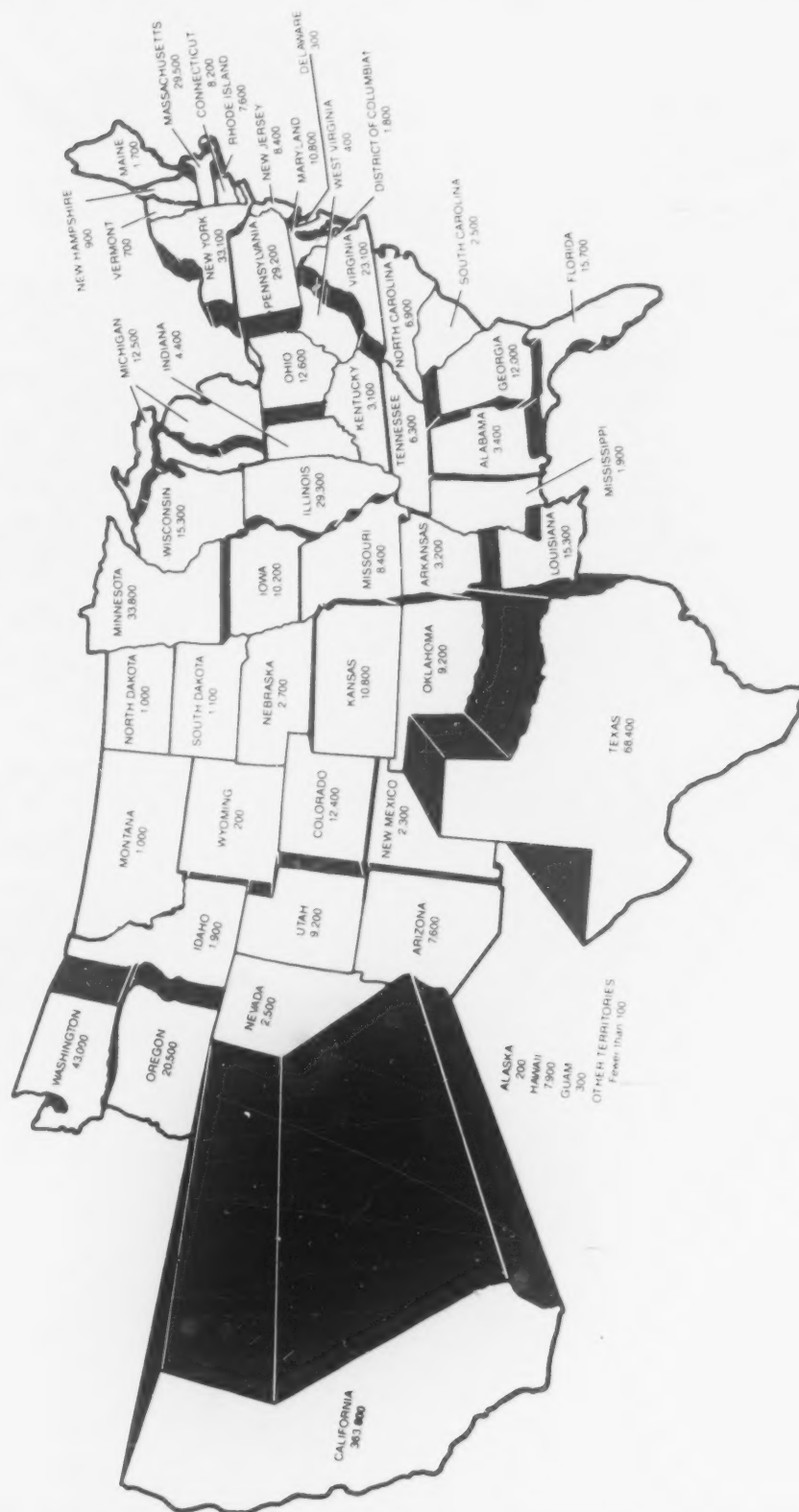


Federal Fiscal Year	Country of Nationality			Total
	Cambodia	Laos	Vietnam	
1989	1,916	12,432	22,664a/	37,012a/
1988	2,805	14,556	17,654a/	35,015a/
1987	1,539	15,564	23,012	40,115
1986	9,789	12,869	22,796	45,454
1985	19,097	5,416	25,457	49,970
1984	19,851	7,291	24,818	51,960
1983	13,114	2,835	23,459	39,408
1982	20,234	9,437	43,656	73,327
1981	27,100	19,300	86,100	132,500
1980	16,000	55,500	95,200	166,700
1979	6,000	30,200	44,500	80,700
1978	1,300	8,000	11,100	20,400
1977	300	400	1,900	2,600
1976	1,100	10,200	3,200	14,500
1975	4,600	800	125,000	130,400
TOTAL	144,745	204,800	570,516	920,061

a/ Does not include Amerasian immigrants.

Source: Office of Refugee Resettlement, U.S. Department of Health and Human Services; Bureau for Refugee Programs, Department of State.

SOUTHEAST ASIAN REFUGEES: ESTIMATED CUMULATIVE STATE POPULATION* **INCLUDING ENTRIES FROM 1975 THROUGH SEPTEMBER 1989**



* Adjustments for secondary migration through FY 1988. All totals rounded to the nearest hundred.

† Arrival figures for the District of Columbia are overstated because they are based on the address of the sponsoring organization. Most of those persons are thought to settle directly in nearby Maryland or Virginia.

Source: Office of Refugee Resettlement / U.S. Department of Health and Human Services

REFUGEE ARRIVALS BY COUNTRY OF CITIZENSHIP AND STATE

COUNTRY OF CITIZENSHIP

STATE	CAMBODIA	LAOS	VIETNAM	CZECHOSLOVAKIA	HUNGARY	POLAND
Alabama	282	253	672	5	3	40
Alaska	4	37	76	5	0	23
Arizona	680	351	3,267	36	51	244
Arkansas	31	397	454	8	4	100
California	18,185	27,263	61,976	1,635	761	3,354
Colorado	581	1,174	1,781	122	36	193
Connecticut	1,148	882	1,038	117	414	967
Delaware	0	7	76	0	2	12
District of Columbia	287	207	781	32	113	184
Florida	1,094	705	3,773	193	222	676
Georgia	1,696	954	2,692	74	105	151
Hawaii	78	552	1,340	13	2	6
Idaho	261	234	388	285	22	314
Illinois	2,985	2,009	3,905	298	132	2,928
Indiana	231	202	567	37	22	178
Iowa	549	1,391	1,571	12	51	166
Kansas	419	663	2,486	15	0	33
Kentucky	445	244	932	0	0	29
Louisiana	561	493	2,978	16	1	78
Maine	731	24	151	29	15	379
Maryland	1,155	438	2,076	134	77	616
Massachusetts	5,408	1,232	5,527	819	75	692
Michigan	214	1,039	1,736	100	74	1,861
Minnesota	2,622	7,474	2,875	49	66	275
Mississippi	15	22	546	11	2	9
Missouri	757	584	2,028	214	145	603
Montana	6	186	63	7	0	12
Nebraska	158	217	577	66	10	180
Nevada	132	151	773	14	15	152
New Hampshire	342	71	219	89	10	34
New Jersey	279	152	2,644	220	173	1,478
New Mexico	290	233	487	8	3	41
New York	3,121	1,071	7,259	747	694	4,950
North Carolina	1,503	633	1,388	41	38	202
North Dakota	136	37	157	103	44	110
Ohio	1,687	1,011	1,287	108	186	224
Oklahoma	492	411	1,811	11	1	92
Oregon	1,011	1,181	2,723	25	21	100
Pennsylvania	3,065	890	4,792	203	224	1,297
Rhode Island	1,228	1,027	239	0	202	86
South Carolina	99	79	309	0	8	12
South Dakota	34	60	155	60	79	181
Tennessee	1,263	1,292	912	36	15	155
Texas	5,366	3,379	14,365	239	107	1,244
Utah	1,753	540	1,366	292	7	242
Vermont	232	19	27	274	19	34
Virginia	2,181	825	4,407	36	59	212
Washington	4,773	2,994	5,703	167	520	854
West Virginia	16	19	42	8	6	20
Wisconsin	211	5,929	500	27	11	190
Wyoming	0	14	20	3	5	2
Guam	8	0	37	0	0	0
Other and Unknown	0	0	0	0	0	0
TOTAL	69,797	71,252	158,054	7,043	4,852	26,289

Note: Figures are based on data from the Refugee (formerly ACVA) Data Center agencies as of October 15, 1989 and may not include information on Source: Office of Refugee Resettlement, U.S. Department of Health and Human Services

TE OF INITIAL RESETTLEMENT FY 83 THROUGH FY 89

TIZENSHIP

ROMANIA	USSR	ETHIOPIA	AFGHANISTAN	IRAN	TOTAL
33	5	63	36	29	1,421
13	1	0	7	33	199
732	71	408	237	217	6,294
7	1	0	3	15	1,020
6,423	22,407	2,897	6,042	16,958	167,901
59	473	168	252	146	4,985
531	526	80	72	206	5,981
8	24	2	20	28	179
58	16	644	261	109	2,692
646	631	305	210	384	8,839
218	388	488	409	278	7,453
2	0	2	31	0	2,028
223	73	3	0	17	1,820
2,959	3,970	571	304	562	20,623
117	112	42	57	79	1,644
67	42	24	3	32	3,908
22	104	19	82	51	3,894
51	22	52	39	27	1,841
20	8	37	34	38	4,264
41	9	10	253	101	1,743
253	1,002	847	368	933	7,899
129	3,968	256	97	387	18,590
1,396	556	231	55	150	7,412
186	543	418	163	127	14,798
7	1	13	4	9	739
369	294	457	118	89	5,658
4	43	9	5	1	336
31	28	7	184	11	1,469
42	17	180	124	240	1,840
176	24	1	10	32	1,008
559	1,234	238	459	387	7,821
29	4	11	52	37	1,195
4,421	22,304	816	3,043	3,427	91,853
85	41	80	104	42	4,157
133	47	42	0	34	843
743	920	293	53	121	6,633
54	25	23	32	186	3,140
823	1,159	146	102	142	7,433
591	2,660	372	207	211	14,512
20	318	12	1	17	3,150
20	33	9	23	41	633
108	153	141	12	93	1,068
96	320	85	184	366	4,724
988	260	1,592	623	926	29,089
55	44	2	19	84	4,508
84	88	2	0	139	918
115	1,211	394	1,824	388	11,652
478	58	499	279	190	16,515
9	189	1	11	20	341
17	85	48	37	45	7,100
0	0	2	38	3	88
0	0	8	0	0	37
2	1	8	0	0	1
24,253	66,513	13,044	16,600	28,188	465,885

er, the Intergovernmental Committee for Migration, and other federal
 all refugees in the categories reported.
 n Services

ASYLUM CASES FILED WITH INS DISTRICT DIRECTORS
APPROVED AND DENIED, BY SELECTED NATIONALITIES

June 1983 - September 1989
 Cumulative

FY 89 Only

Country	Approval			Approval			Cases
	Rate for	Cases	Cases	Rate for	Cases	Cases	Currently
	Cases	Granted	Denied	Cases	Granted	Denied	Pending
	Decided			Decided			
TOTAL a/	25.1%	35,358	105,300	18.0%	6,942	31,547	71,993
USSR	72.6%	306	115	81.6%	109	11	174
Romania	70.3%	1,470	619	90.9%	575	57	382
Iran	61.5%	13,061	8,173	57.4%	602	446	987
Czechoslovakia	47.4%	170	188	56.6%	47	36	119
Ethiopia	43.5%	1,796	2,325	65.8%	456	236	691
China	41.8%	265	368	80.9%	98	23	526
Syria	40.8%	207	300	58.3%	21	15	171
South Africa	40.1%	57	85	42.4%	14	19	51
Poland	37.0%	2,971	5,053	29.2%	285	688	2,740
Afghanistan	36.6%	421	729	29.6%	19	45	143
Somalia	33.8%	262	512	65.3%	119	63	266
Vietnam	32.8%	75	153	63.6%	7	4	23
Hungary	29.8%	206	485	28.4%	31	78	260
Nicaragua	27.1%	10,872	29,154	25.6%	3,617	10,486	21,693
Uganda	26.2%	98	276	28.0%	7	18	28
Philippines	16.6%	87	435	7.3%	5	63	138
Pakistan	15.0%	77	433	51.8%	14	13	105
Cuba	14.9%	397	2,266	29.0%	76	186	13,744
Yugoslavia	11.9%	57	421	4.9%	4	77	311
Lebanon	9.5%	171	1,623	31.8%	58	124	453
El Salvador	2.5%	1,004	37,666	2.3%	337	13,861	19,929
Honduras	2.2%	32	1,407	1.3%	14	1,009	388
Sri Lanka	2.1%	3	141	4.3%	1	22	41
Haiti	2.1%	39	1,795	3.5%	3	82	707
Guatemala	2.0%	112	5,411	1.9%	67	3,325	6,287

a/ The total includes all nationalities, not just those listed here. A total of 101,679 asylum applications were filed in FY 89, of which 85 percent were filed by nationals of Nicaragua, El Salvador, Guatemala, and Honduras.

Note: Starting in May 1983, the INS kept asylum statistics by number of cases. Each case, or application, may include more than one individual. Prior to June 1983, INS asylum figures were for actual number of individuals. To avoid inconsistency, this chart includes data only since INS data was based on number of cases.

This chart is based on data for asylum cases filed with INS district directors only. Many applications for asylum are filed with immigration judges, particularly in the context of deportation proceedings.

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

REFUGEE APPROVAL RATE BY INS OFFICES ABROAD
FY 1989
BY REGION AND SELECTED NATIONALITY

	APPROVAL RATE FOR CASES DECIDED	CASES APPROVED	CASES DENIED	PENDING
TOTAL	74%	95,505	33,179	87,881
REGION				
Asia	87%	35,196	5,355	543
Latin America	79%	2,848	758	664
Near East	79%	7,016	1,910	3,756
Eastern Europe	72%	8,916	3,457	28,809
Africa	57%	1,825	1,379	4,648
USSR	66%	39,704	20,320	49,461
COUNTRY				
Angola	100%	18	0	66
Albania	96%	47	2	69
Laos	96%	10,780	472	8
Hong Kong	87%	102	15	10
Cuba	86%	2,517	395	65
Czechoslovakia	86%	925	154	2,008
Romania	86%	3,173	523	4,491
Zaire	86%	18	3	81
Vietnam	85%	22,198	3,918	190
Iran	81%	5,132	1,174	2,321
Bulgaria	80%	110	27	459
South Africa	77%	21	6	31
Somalia	74%	14	5	68
Afghanistan	73%	1,770	658	1,417
Hungary	70%	1,075	456	3,214
Cambodia	69%	2,114	945	4
USSR	66%	39,704	20,320	49,717
Poland	61%	3,585	2,294	17,485
Iraq	59%	111	78	124
Ethiopia	56%	1,697	1,325	3,225
Nicaragua	50%	323	321	36

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

Note: The total includes all nationalities. Nationalities for whom fewer than ten cases were approved or denied are not included in the country-by-country tally.

INDOCHINESE REFUGEE ACTIVITY SINCE APRIL 1975
(Excluding Orderly Departure Program)

FIRST ASYLUM COUNTRIES	POPULATION AS OF 9/30/89	FY 89 ARRIVALS	ARRIVALS SINCE APRIL 1975	TO U.S.	3RD COUNTRIES	VOLUNTARY REPATRIATION	RELOCATION	OTHER
HONG KONG	56,389	35,505	183,468	50,316	62,816	290	0	311
MACAU	401	7	7,666	2,427	3,585	0	0	574
INDONESIA	5,326	5,096	109,151	42,795	41,333	6	0	60
MALAYSIA	20,430	18,121	253,239	88,807	97,316	21	0	161
PHILIPPINES	9,871	6,753	52,373	10,122	15,646	9	0	39
JAPAN	2,701	2,763	3,098	3,026	4,726	0	0	1
KOREA	289	0	349	8	105	0	0	0
TAIWAN	167	0	38	2	17	0	0	1
SINGAPORE	769	1,406	35,036	5,654	20,534	1	0	5
OTHER	0	289	40,851	3,221	28,718	0	0	14
THAILAND-KHMER	17,107	5,388	244,604	50,413	75,940	68	41,172	322
THAILAND-HIGHLANDERS	52,554	6,312	164,931	53,203	21,773	989	0	2,823
THAILAND-LAO	15,261	1,714	193,093	72,063	46,299	3,398	1,000	3,269
THAILAND-VIETNAMESE	13,876	8,342	143,350	36,632	41,880	6	0	486
SUBTOTAL THAILAND	98,798	21,756	745,978	212,311	185,892	4,461	42,172	6,900
TOTAL FIRST ASYLUM	298,141	81,905	1,431,247	418,891	480,985	4,765	42,172	4,066
REFUGEE PROCESSING CENTERS (RPCs)								
BATAAM	13,274	12,657	214,005	206,931	5,932	0	0	140
GALANG	0	0	55,501	50,651	4,669	0	0	146
PHAMAT NIKHOM	4,073	8,866	57,105	53,881	7	0	329	181
TOTAL RPCs	17,347	11,523	326,611	311,463	10,608	0	329	467
VIETNAMESE TO U.S. IN 1975	0	0	124,547	123,000	0	1,547	0	0
OTHER TO U.S. IN 1975	0	0	12,000	12,000	0	0	0	0
VM TO CHINA BETWEEN 1977-79	0	0	263,000	0	263,000	0	0	0
GRAND TOTAL	212,488	93,428	1,820,798	485,154	734,193	6,315	42,501	9,533

Source: Bureau for Refugee Programs/U.S. Department of State.

ARRIVALS IN RESETTLEMENT COUNTRIES: 1988, 1989, AND CUMULATIVE SINCE 1975

RESETTLEMENT COUNTRY	VIETNAMESE BOAT PEOPLE		VIETNAMESE LAND		KHMER		LAO		ORDERLY DEPARTURES FROM VIETNAM		TOTAL		CUMULATIVE TOTAL 1975-1989
	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	
AUSTRALIA	3,562	3,734	62	224	1,243	868	683	279	1,756	3,473	7,307	8,578	136,157
AUSTRIA	14	25	--	--	--	1	--	5	59	56	73	87	2,371
BELGIUM	26	8	1	--	32	--	5	--	192	157	256	165	7,508
CANADA	4,668	4,459	225	285	1,352	1,040	836	470	1,356	2,051	8,437	8,305	154,284
CHINA	--	--	--	--	--	--	--	--	--	--	--	--	263,000
DENMARK	124	210	--	14	16	3	--	--	345	260	485	487	5,028
FINLAND	237	254	14	6	21	--	6	--	19	33	297	293	1,053
FRANCE	827	546	44	19	551	74	409	106	835	961	2,676	1,706	126,897
GERMANY, F.R.	338	296	4	4	8	--	6	2	693	515	1,049	817	32,654
GREECE	4	--	--	--	--	--	--	--	55	4	59	11	255
HONG KONG	17	7	--	--	1	1	--	--	2	1	20	9	9,985
IRELAND	--	--	--	--	--	--	--	--	29	39	29	39	329
ITALY	--	--	--	4	1	17	--	--	41	20	42	37	3,752
IVORY COAST	--	--	--	--	--	--	9	--	--	--	--	9	69
JAPAN	232	173	1	1	68	56	61	31	144	103	506	364	6,557
LUXEMBOURG	1	56	--	--	--	--	--	--	17	5	18	61	293
NETHERLANDS	248	85	6	1	69	115	3	--	113	95	439	296	8,040
NEW ZEALAND	174	144	--	--	368	93	112	89	--	83	654	409	9,773
NORWAY	328	342	4	--	25	7	--	1	617	622	974	2,357	9,732
SPAIN	3	--	--	--	--	--	--	--	5	--	8	--	935
SWEDEN	93	191	5	5	9	--	1	8	410	260	518	464	5,767
SWITZERLAND	76	35	5	--	27	5	11	12	68	45	187	97	9,181
U.K.	296	245	1	--	13	--	19	3	427	459	756	707	21,658
U.S.A. a/	10,925	13,646	N/A	N/A	2,805	1,916	14,556	12,432	6,702	17,685	34,988	45,679	930,153
OTHERS	1	2	--	--	5	1	--	--	58	23	63	24	9,857
TOTAL	22,204	24,458	373	563	6,614	4,197	16,717	13,438	13,943	26,950	59,932	69,606	1,755,288

a/ To maintain consistency, U.S. statistics are from the Department of State and record fiscal year arrivals. Vietnamese totals in this line reflect both land and boat arrivals.

Primary source: UN High Commissioner for Refugees (Current as of September 30, 1989)

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Virginia Hamilton
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- * Agencies' Cooperative Effort is Key in Project for Amerasians 7
- * Deaf Refugees in Minnesota Learn American Sign Language 6
- * ESL/Civics: Planning and Implementing English and Civics Programs, American Council for Nationalities Service (handbook) 2
- * Southeast Asian Refugee Studies Newsletter, University of Minnesota (resource) 6
- * States with Largest School Enrollments of Refugee Children (statistics) 10

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- * Aging, Office of Human Development Services, HHS (magazine) 6
- * Agreement reached in Haitian class-action suit (update) 2
- * INS Seeks Tougher Approach on Asylum, Work Authorization Travel, But Faces Legal Challenge (lead story) 1
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6

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- * Deaf Refugees in Minnesota Learn American Sign Language 6
- * ESL/Civics: Planning and Implementing English and Civics Programs, American Council for Nationalities Service (handbook) 2

EUROPE (SEE EASTERN EUROPE OR WESTERN EUROPE)**HAITI/HAITIANS**

- * Agreement reached in Haitian class-action suit (update) 2
- * Country Reports on Human Rights Practices for 1988, Department of State (annual report) 2
- * Haitian Exclusion Hearings at Krome (transcript) 4
- * Haitian Interdictions Hit Record High, INS Facility at Krome Swells With Haitians 4
- * House Hearing Looks at Haitian Interdiction, Detention 6
- * Problems Faced by African and Haitian Refugees Discussed at Washington Conference 10
- * The More Things Change... Human Rights in Haiti, Human Rights Watch, National Coalition for Haitian Refugees (report) 4
- * New Flows of Cubans and Haitians reported (update) 10
- * Tensions run high at Krome Detention Center (update) 5

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- * Agencies' Cooperative Effort is Key in Project for Amerasians 7
- * Aging, Office of Human Development Services, HHS 7

- (magazine) 6
- Community of Confinement: Site II, Indochinese Psychiatric Clinic (report) 5
- "Crossing Cultures in Mental Health," International Counseling Center (conference) 1
- Deaf Refugees in Minnesota Learn American Sign Language 5
- "Emerging Health Issues with Refugees," Wisconsin Refugee Health Program (conference) 6
- Mental Health Crisis at Site 2 5
- Minnesota Center Helps Victims of Torture Heal Hidden Scars 6
- Refugee Health Issues Quarterly, American Refugee Committee (resource) 6
- "Refugee Mental Health: Looking Forward, Looking Back," Colorado Division of Mental Health (conference) 7
- Report analyzes boat people and "survivor guilt" (update) 2
- Southeast Asian Refugee Studies Newsletter, University of Minnesota (resource) 6

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- Compromise legal immigration bill passes Senate (update) 7
- Directory of Nonprofit Agencies that Assist Persons in Immigration Matters, National Center for Immigrants' Rights, (guide) 2
- Four-mile ditch planned for Mexican border (update) 1
- The Immigration Reform and Control Act has resulted in 35 percent fewer apprehensions (update) 7
- INS Seeks Tougher Approach on Asylum, Work Authorization Travel, But Faces Legal Challenge (lead story) 1
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- Administration and Congress to Hold Emergency Consultations on FY 89 Refugee Admissions (lead) 3
- Adjustment of Status for EVD Poles, Afghans, Ethiopians, and Ugandans ends December 22 (update) 12
- Agreement reached in Haitian class action suit (update) 8
- Asylum Cases Approved and Denied by INS District Directors for Selected Nationalities, June 83-Sept. 89 12
- Border Patrol apprehensions down in FY 89, but rise again in first quarter, FY 90 (update) 12
- Bush vetoes Chinese student visa extension bill (update) 12
- Aliens Have Right to Free Speech, Part of Immigration Law Found Unconstitutional 3
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- Asylum Appeal Cases Raise Hope for More Positive Decisions 11
- Border Patrol Apprehensions (statistics) 2
- Border Patrol Apprehensions (statistics) 2
- Border Patrol reduces McAllen sector staff (update) 5
- Buck named Acting INS Commissioner (update) 7
- Comparison of Asylum Approval Rates (statistics) 5
- Congress, Administration Offer Legislative Responses to Soviet Refugee Surge (lead) 4
- Congress Considers Presumptive Refugee Status Eligibility for Certain Soviets, Poles, and Indochinese (lead) 7
- Congress Steps Up Protection for Chinese Students 7
- Detained, Denied, Deported: Asylum Seekers in the United States, Helsinki Watch (report) 8
- Detention and Deterrence in Texas: Central Americans in INS Proceedings (lead) 5
- District court orders second chance for asylum seekers in Los Angeles, faults "quick adjudications" (update) 6
- Four-mile ditch planned for Mexican border (update) 1
- Haitian Exclusion Hearings at Krome (transcript) 4
- Haitian Interdictions Hit Record High, INS Facility at Krome Swells With Haitians 4
- House Hearing Examines U.S. Asylum Policy Options 3
- House to Merge Safe Haven Bills for Chinese and Central Americans 10
- The Immigration Reform and Control Act has resulted in 35 percent fewer apprehensions (update) 7
- INS Deports Guatemalan Against Judge's Order 4
- INS Drafts Legislation to Block Asylum Seekers at Ports of Entry 4
- INS extends visas of Chinese now in U.S. (update) 6
- INS plagued by sloppy management, says the GAO (update) 4
- INS Seeks Tougher Approach on Asylum, Work Authorization Travel, But Faces Legal Challenge (lead story) 1
- Israel and U.S. Compete for Exiting Soviet Jews 7
- Jews, Pentecostals Challenge INS Denials of Refugee Status for Soviet Emigre 3

- The Law of Asylum in the United States: A Manual for Practitioners and Adjudicators, AILA (book) 8
- Lives on the Line: Seeking Asylum in South Texas, American Bar Association (report) 8
- The New Asylum Seekers: Refugee Law in the 1980's, Kiewer Academic Publishers (book) 8
- McNary confirmed Commissioner of INS (update) 11
- New Flows of Cubans and Haitians reported (update) 10
- New INS commissioner forbids INS interviews with press and Congress without prior approval from offices of Congressional and Public Affairs (update) 12
- Polish EVD extended to March 1, 1989 (update) 1
- Refugee Approval Rate by INS offices Abroad, FY 89 by Region and Nationality (statistics) 12
- Rivkind resigns as Miami INS director (update) 8
- State Dept. advisory "sticker" opinions not to be considered negative (update) 4
- Suit Stands Charging Bias Against Salvadorans and Guatemalans on Asylum and EVD 10
- Temporary Safe Haven for Lebanese Proposed 10
- U.S. concludes final review of Cambodians rejected for resettlement (update) 8
- U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- U.S. Resumes Deportation of Nicaraguans 5
- U.S. Set to Judge All Soviet Refugee Claims in Moscow, 50,000 Places for Soviet Refugee Admissions Requested (lead story) 9

INTERGOVERNMENTAL AGENCIES

- A Future Preserved: International Assistance to Refugees, Pergamon Press (book) 8
- From Killing Time to the Killing Fields?: Cambodian Refugees Fear Forced Repatriation (lead story) 10
- Geneva Conference Urges Repatriation of Vietnamese Boat People 7
- House Holds Hearing on Indochinese Refugees at Risk 1
- Services to Refugees Worldwide Threatened by UNHCR Funding Crisis 7
- UNHCR Funding Crisis Deepens 11
- UN High Commissioner For Refugees Hocke resigns 11

LAOS/LAOTIANS (INCLUDING ALL ETHNIC GROUPS)

- Country Reports on Human Rights Practices for 1988, Department of State (annual report) 2
- Thai authorities round up Lao, send them to detention center (update) 8

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- "American Resettlement: Strategies for Success," U.S. Catholic Conference (conference) 1
- "Crossing Cultures in Mental Health," International Counseling Center (conference) 1
- "Emerging Health Issues with Refugees," Wisconsin Refugee Health Program (conference) 6
- Geneva Conference Urges Repatriation of Vietnamese Boat People 7
- "Genocide Watch," Institute for the Study of Genocide, Cultural Survival, U.S. Committee for Refugees Conference (conference) 2
- Problems Faced by African and Haitian Refugees Discussed at Washington Conference, National Immigration, Refugee and Citizenship Forum 10

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MIDDLE EAST AND SOUTH ASIA/REFUGEES FROM THE MIDDLE EAST AND SOUTH ASIA

- Adjustment of Status for EVD Poles, Afghans, Ethiopians, and Ugandans ends December 22 (update) 12
- Afghan refugees flee fighting in Kabul (update) 3
- Amanullah and Wahidullah vs. Cobb 1
- Children of the Stones, American Arab Anti-Discrimination Committee (book) 3
- Court Bars Return of Afghan Refugees to India 1
- Aliens Have Right to Free Speech, Part of Immigration Law Found Unconstitutional 3
- American-Arab Anti-Discrimination Committee v. Meese 3
- Soleimani, Matter of 11
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MUTUAL ASSISTANCE ASSOCIATIONS (MAA)

- South Asian Refugees in United States Face Many Problems, Find Little Support 10
- Refugees Speak for Themselves through "Refugee Voices" 8

OFFICE OF REFUGEE RESETTLEMENT (ORR)/HEALTH AND HUMAN SERVICES (HHS)

- * Administration and Congress to Hold Emergency Consultations on FY 89 Refugee Admissions (lead) 3
- * "Amerasian Resettlement: Strategies for Success," U.S. Catholic Conference (conference) 1
- * Congress Funds More FY 89 Refugee Admissions, ORR Gets No New Money (lead) 6
- * Funds available for targeted assistance (update) 7
- * FY 90 Budget Request for U.S. Refugee Program (statistics) 2
- * Gee resigns as ORR director (update) 5
- * Gersten named director designate of ORR (update) 11
- * House Immigration Subcommittee marks up Refugee Resettlement Extension Act (update) 7
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1

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- * Administration and Congress to Hold Emergency Consultations on FY 89 Refugee Admissions (lead) 3
- * FY 90 Budget Request for U.S. Refugee Program (statistics) 2
- * FY 90 Refugee Budgets Clear Congress, Await Presidential Signature (lead) 11
- * House Holds Hearing on Indochinese Refugees at Risk 1
- * LaFontant named U.S. Coordinator for Refugees (update) 3
- * LaFontant Sworn in as U.S. Refugee Coordinator 7
- * U.S. Coordinator for Refugees and Bureau for Refugee Programs Director to be staffed separately (update) 6
- * U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- * U.S. Set to Judge All Soviet Refugee Claims in Moscow, 50,000 Places for Soviet Refugee Admissions Requested (lead) 9
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1

ORDERLY DEPARTURE PROGRAM (ODP)

- * ASEAN nations announce they will screen Vietnamese asylum seekers (update) 3
- * Congress, Administration Offer Legislative Responses to Soviet Refugee Surge (lead) 4
- * House Reviews Vietnamese Refugee Policy 7
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1
- * U.S. and Vietnam agree to exit of reeducation camp prisoners (update) 8

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- * Pirates attack Vietnamese refugees off Malaysia coast (update) 5
- * Refuge Denied, Lawyers Committee for Human Rights (report) 1
- * Report analyzes boat people and "survivor guilt" (update) 2

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- * Agreement reached in Haitian class-action suit (update) 2
- * Aliens Have Right to Free Speech, Part of Immigration Law Found Unconstitutional 3
- * Amanullah and Mahidullah vs. Cobb 1
- * American-Arab Anti-Discrimination League v. Meese 3
- * Asylum Appeal Cases Raise Hope for More Positive Decisions 11
- * Bolance-Hernandez v. INS 11
- * Compromise legal immigration bill passes Senate (update) 7
- * Congress, Administration Offer Legislative Responses to Soviet Refugee Surge (lead) 4
- * Court Bars Return of Afghan Refugees to India 1
- * Court upholds conviction in sanctuary trial (update) 4
- * District court orders second chance for asylum seekers in Los Angeles, faults "quick adjudications" (update) 6
- * Haitian Exclusion Hearings at Krome (transcript) 4
- * House Hearing Examines U.S. Asylum Policy Options 3
- * House Reviews Vietnamese Refugee Policy 7
- * INS Departs Guatemalan Against Judge's Order 4
- * INS Drafts Legislation to Block Asylum Seekers at Ports of Entry 4
- * INS Seeks Tougher Approach on Asylum, Work Authorization

- Travel, But Faces Legal Challenge (lead story) 1
- * Legislation Introduced Relating to Refugees and Asylum Seekers (list) 2
- * Maldonado Cruz v. INS 11
- * Chen, Matter of 11
- * President signs determination to increase refugee ceiling for FY 89 (update) 7
- * Senate Judiciary Committee approves overhaul of immigration law (update) 6
- * Soleimani, Matter of 11
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- * Strip searches of juveniles at INS detention facilities are unconstitutional, rules district court (update) 7
- * Suit Stands Charging Bias Against Salvadorans and Guatemalans on Asylum and EVD 10
- * U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1

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- * Congress Funds More FY 89 Refugee Admissions, ORR Gets No New Money (lead) 6
- * Federal Refugee Assistance Funding Per Refugee Arrival (statistics) 6
- * Funds available for targeted assistance (update) 7
- * FY 90 Budget Request for U.S. Refugee Program (statistics) 2
- * FY 90 Refugee Budgets Clear Congress, Await Presidential Signature (lead) 11
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6
- * U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1

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- * Haitian Interdictions Hit Record High, INS Facility at Krome Swells With Haitians 4
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6

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- * Administration and Congress to Hold Emergency Consultations on FY 89 Refugee Admissions (lead) 3
- * ASEAN nations announce they will screen Vietnamese asylum seekers (update) 3
- * Congress, Administration Offer Legislative Responses to Soviet Refugee Surge (lead) 4
- * Congress Considers Presumptive Refugee Status Eligibility for Certain Soviets, Poles, and Indochinese (lead story) 7
- * ESL/Civics: Planning and Implementing English and Civics Programs, American Council for Nationalities Service (handbook) 2
- * Federal Refugee Assistance Funding Per Refugee Arrival (statistics) 6
- * Hong Kong Refugee Population Running Out of Time and Space 9
- * House Holds Hearing on Indochinese Refugees at Risk 1
- * House reviews Vietnamese Refugee Policy 7
- * Jews, Pentecostals Challenge INS Denials of Refugee Status for Soviet Emigres 3
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * Refuge Denied, Lawyers Committee for Human Rights (report) 1
- * Refugee Approval Rates by INS Offices Abroad, FY 89, by Region and Nationality 12
- * Refugee Processing Priorities by Region (statistics) 12
- * U.S. and Vietnam agree to exit of reeducation camp prisoners (update) 8
- * U.S. Set to Judge All Soviet Refugee Claims in Moscow, 50,000 Places for Soviet Refugee Admissions Requested (lead story) 9
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1

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- * Closed Borders: The Contemporary Assault on Freedom of Movement, Alan Dowty (book) 9
- * Community of Confinement: Site II, Indochinese Psychiatric Clinic (report) 5
- * Jews, Pentecostals Challenge INS Denials of Refugee Status for Soviet Emigres 3
- * Khmer Rouge Abuses Along the Thai-Cambodian Border, Asia Watch (report) 5

- * The New Asylum Seekers (book) 8
- * Political Pawn: Refugees on the Thai-Cambodian Border, Josephine Reynell (book) 2
- * Mental Health Crisis at Site 2 5

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- * Agencies' Cooperative Effort is Key in Project for Amerasians 7
- * Aging, Office of Human Development Services, HHS (magazine) 6
- * "Amerasian Resettlement: Strategies for Success," U.S. Catholic Conference (conference) 1
- * American Families Opening Homes to Central American Teenage Asylum Seekers 8
- * "Crossing Cultures in Mental Health," International Counseling Center (conference) 1
- * Deaf Refugees in Minnesota Learn American Sign Language 6
- * "Emerging Health Issues with Refugees," Wisconsin Refugee Health Program (conference) 6
- * South African Refugees in United States Face Many Problems, Find Little Support 10
- * Minnesota Center Helps Victims of Torture Heal Hidden Scars 6
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * Refugee Health Issues Quarterly, American Refugee Committee (resource) 6
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6
- * Refugees Speak for Themselves through "Refugee Voices" 8
- * Southeast Asian Refugee Studies Newsletter, University of Minnesota (resource) 6

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- * Administration and Congress to Hold Emergency Consultations on FY 89 Refugee Admissions (lead) 3
- * Congress, Administration Offer Legislative Responses to Soviet Refugee Surge (lead) 4
- * Congress Considers Presumptive Refugee Status Eligibility for Certain Soviets, Poles, and Indo-Chinese (lead story) 7
- * Federal Refugee Assistance Funding Per Refugee Arrival (statistics) 6
- * FY 89 Refugee Arrivals by State, as of June 1989 (statistics) 8
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- * House Reviews Vietnamese Refugee Policy 7
- * Indo-Chinese refugee admissions to U.S. will be heavy in last quarter (update) 5
- * Jews, Pentecostals Challenge INS Denials of Refugee Status for Soviet Emigres 3
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * Planned Adjustments to FY 89 Funded Regional Admissions Ceilings (statistics) 1
- * President signs determination to increase refugee ceiling for FY 89 (update) 7
- * Refugee Admissions to the U.S. and Refugee Admissions Ceilings, FY 75-89 (statistics) 12
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6
- * Summary of Refugee Admissions, First Half of FY 89 (statistics) 5
- * U.S. and Vietnam agree to exit of reeducation camp prisoners (update) 8
- * U.S. Refugee and Asylum Policies: A 1988 Chronology (chart) 1
- * U.S. Shifts 7,000 Refugee Numbers from Asia to the Soviet Union 1
- * U.S. Set to Judge All Soviet Refugee Claims in Moscow, 50,000 Places for Soviet Refugee Admissions Requested (lead story) 9

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- * Deaf Refugees in Minnesota Learn American Sign Language 6
- * Funds available for targeted assistance (update) 7
- * Minnesota Center Helps Victims of Torture Heal Hidden Scars 6
- * Only 10,500 Amerasian Admissions Expected in FY 1989, But 45 Percent Due in September 7
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6
- * Refugees Speak for Themselves through "Refugee Voices" 8

- * South African Refugees in United States Face Many Problems, Find Little Support 10

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- * Refugee Health Issues Quarterly, American Refugee Committee (resource) 6
- * "Refugee Resettlement in Minnesota," by Gov. Rudy Perpich 6
- * Southeast Asian Refugee Studies Newsletter, University of Minnesota (resource) 6

RESOURCES/GUIDES

- * African Human Rights Directory and Bibliography, Human Rights Internet (guide) 6
- * Aging, Office of Human Development Services, HHS (magazine) 6
- * Americas Watch Reports on Latin America (several reports) 8
- * Czechoslovakia, Prison Conditions in, Human Rights Watch (report) 8
- * Children of the Stones, American-Arab Anti-Discrimination Committee (book) 3
- * Closed Borders: The Contemporary Assault on Freedom of Movement, Alan Dowty (book) 9
- * Community of Confinement: The Mental Health Crisis in Site Two, Richard F. Mollica and Russell R. Jailbert (book) 5
- * Country Reports on Human Rights Practices for 1988, Department of State (annual report) 2
- * Detained, Denied, Deported: Asylum Seekers in the United States, Helsinki Watch (report) 8
- * Directory of Nonprofit Agencies that Assist Persons in Immigration Matters, National Center for Immigrants' Rights, (guide) 2
- * ESL/Civics: Planning and Implementing English and Civics Programs, American Council for Nationalities Service (handbook) 2
- * If the War in Nicaragua Ends: Where Will the Contras Go? A Discussion Paper, Refugee Policy Group (report) 1
- * Inhumane Detention: The Human Rights of Vietnamese Boat People in Hong Kong, Lawyers Committee for Human Rights (report) 8
- * In Search of Asylum: Vietnamese Boat People in Hong Kong, Indochina Resource Action Center (report) 1
- * Khmer Rouge Abuses Along the Thai-Cambodian Border, Asia Watch (report) 5
- * Lives on the Line: Seeking Asylum in South Texas, American Bar Association (report) 8
- * The More Things Change... Human Rights in Haiti, Human Rights Watch, National Coalition for Haitian Refugees (report) 4
- * The New Asylum Seekers: Refugee Law in the 1980's, Kluwer Academic Publishers (book) 8
- * Poland, Prison Conditions in, Human Rights Watch (report) 8
- * Political Pawn: Refugees on the Thai-Cambodian Border, Josephine Reynell (book) 2
- * Refuge Denied, Lawyers Committee for Human Rights (report) 1
- * Refugee Health Issues Quarterly, American Refugee Committee (resource) 6
- * "Samsara", new film on Cambodia, Ellen Bruno (resource) 10
- * "Situation Zero," Stanley Harper (film) 5
- * Southeast Asian Refugee Studies Newsletter, University of Minnesota (resource) 6
- * Turkey, Prison Conditions in, Human Rights Watch (report) 8
- * Victims and Survivors: Displaced Persons and Other War Victims in Viet-Nam, 1954-1975, Louis Wiesner (book) 9
- * Violations of the Helsinki Accord: Poland, Human Rights Watch (report) 9

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- * Court upholds conviction in sanctuary trial 4

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- * ASEAN nations announce they will screen Vietnamese asylum seekers (update) 3
- * Cambodia: Peace at Last or the Return of Pol Pot? (lead) 7
- * Congress Considers Presumptive Refugee Status Eligibility for Certain Soviets, Poles, and Indo-Chinese (lead story) 7
- * From Killing Time to the Killing Fields?: Cambodian Refugees Fear Forced Repatriation (lead story) 10
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		* Country Reports on Human Rights Practices for 1988, Department of State (annual report)	2
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Volume XI, Number 1

January 31, 1990

ADMINISTRATION ISSUES FY 91 BUDGET REQUEST, FY 90 SHORTFALLS STILL UNRESOLVED

On January 29, President George Bush revealed his \$1.2 trillion budget request for FY 91, which includes \$844.5 million for refugee admissions, resettlement, and overseas assistance. The budget is based on projected refugee admissions next year of 110,000.

The Office of Refugee Resettlement (ORR) in the Department of Health and Human Services has requested \$368,822,000 for FY 91, the same amount that was appropriated for FY 90. The State Department's Bureau for Refugee Programs (BRP) is seeking \$450,648,000 for migration and refugee assistance, an increase of nearly \$61 million over this year's budget. BRP has also requested \$25 million for the emergency refugee and migration assistance (ERMA) fund, which currently holds \$50 million.

But before attention can turn to next year, many involved in U.S. refugee programs are saying that something must be done about a shortfall estimated at more than \$100 million in the FY 90 refugee budget.

Those estimates include a \$70 million shortfall in refugee processing and admissions, and a 50 million shortfall in overseas assistance. Some state service providers, moreover, suggest that federal funding for resettlement in FY 90 will fall short of needs by about \$16 million.

"The FY 91 refugee budget is not perfect, but it is better than any we have seen in several years," one program veteran told *Refugee Reports*. "But the first priority is taking care of this year's budget needs, on both the domestic and overseas sides."

Admissions Shortfall Most Acute in Soviet Program

At the annual refugee consultations between Congress and the Administration last September, Deputy Secretary of State Lawrence Eagleburger said, "We realize there is a funding gap to be closed" for refugee admissions.

Having based its initial budget request on an estimated 84,000 refugee admissions in FY 90, the Administration ultimately proposed a worldwide ceiling of 125,000, of which 111,000 were to be fully federally funded. The remaining 14,000 admissions slots

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President Bush has requested \$884.5 million for refugee programs in FY 91, but refugee program people are saying the FY 90 budget shortfalls must be addressed first.....1

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ORR REFUGEE AND ENTRANT ASSISTANCE BUDGET, 1989 to 1991

	1989 Actual	1990 Estimated	1991 Request	Increase or Decrease 1990 to 1991
State-administered Programs*	324,851,000	285,000,000	285,000,000	Same
Voluntary agency matching grant program	15,808,000	40,000,000	40,000,000	Same
Preventive health	5,770,000	5,770,000	5,770,000	Same
Targeted assistance	34,052,000	38,052,000	38,052,000	Same
TOTAL	380,481,000	368,822,000	368,822,000	Same

* This line-item includes cash and medical assistance programs, state administration costs, and refugee social services.

STATE DEPARTMENT MIGRATION AND REFUGEE ASSISTANCE BUDGET, 1989 to 1991

	1989 Actual	1990 Estimated	1991 Request	Increase or Decrease 1989 to 1990
Refugee Admissions Program	203,727,000	176,885,000	185,220,000	+ 8,335,000
Refugee Assistance Overseas	188,338,000	168,653,000	215,200,000	+46,547,000
Other Assistance	40,600,000	35,929,000	41,700,000	+ 5,771,000
Administrative Expenses	8,000,000	8,215,000	8,528,000	+ 313,000
TOTAL	440,665,000	389,682,000	450,648,000	+60,966,000

EMERGENCY REFUGEE MIGRATION AND ASSISTANCE FUND BUDGETS, 1989 to 1991

	1989 Actual	1990 Estimated	1991 Request	Increase or Decrease 1989 to 1990
	27,000,000	49,785,000	25,000,000	-24,785,000

Source: Budget of the U.S. Government, Fiscal Year 1991.

were allocated for private sponsorship initiatives.

Of the 41,000 new refugee numbers, funded and unfunded, 34,000 went to the Soviet Union, primarily for the admission of Soviet Jews.

Eagleburger estimated that it would cost the State Department another \$58 million to process and admit the additional 27,000 federally funded refugees. "The Administration is committed," he said in Senate testimony on September 15, "to working with the Appropriations Committees to find the necessary funds for the President's program."

In November, the shortfall in the admissions budget grew larger when Congress voted to remove \$15 million from the State Department's migration and refugee assistance account and transfer it to ORR to supplement funds for the voluntary agency matching grant program.

In December, government sources say, the State Department twice sought the approval of the Office of Management and Budget to seek a \$70 million supplemental for FY 90 refugee admissions, but twice was rebuffed.

Without additional federal funds, resettlement agencies are predicting, refugee admissions programs worldwide may cease functioning before the end of the fiscal year, but no group will be hit sooner or harder than the Soviet Jews.

"We think we will be bringing in roughly 40,000 Soviet Jews this year," Phillip Saperia, assistant executive vice president of the Hebrew Immigrant Aid Society (HIAS), told Refugee Reports. "If all of these numbers were fully funded, under normal circumstances HIAS would receive \$19.6 million from the State Department for case documentation and processing. We have been told we can expect \$4 million."

"With virtually all of these 40,000 people moving through the Vienna-Rome pipeline," Saperia continued, "the American Jewish Joint Distribution Committee (JDC) normally would get \$33 million for care and maintenance costs--which includes housing, clothing, food, and living expenses--for an average of 75 days per person. In fact, they are getting \$8 million."

Factoring in additional reductions in federal funds for travel loans and reception and placement grants, the combined shortfall for HIAS and JDC comes to \$46.6 million, Saperia said.

Previously, Jewish emigres left the Soviet Union with Israeli visas and applied for U.S. refugee status in Europe. As of October 1, the United States stopped processing Soviet refugee applications in Vienna and Rome, and shifted the program to the U.S. embassy in Moscow. Some 15,000 Soviet Jewish refugees have resettled in the United States so far in FY 90, but 25,000 people remain in the Europe pipeline.

Refugee approval rates by the Immigration and Naturalization Service in Rome, which had dipped to 64 percent in March, are now at about 99 percent, Saperia said.

More than 125,000 refugee applications are on file in Moscow, and 5,000 Soviet Jews are entering Israel every month. HIAS is estimating that 40,000 Jewish refugees will need to be resettled in the United States next year, Saperia said.

"There is an awful lot of panic in the Soviet Union," Saperia said. "Historically, in periods of political instability, Jews have been victimized. People are saying, 'Get me out of here.'"

Overseas Relief Programs Face Severe Funding Crisis For the world's 15 million refugees, most of whom have no option of resettlement in another country, the agency responsible for their care and protection is in financial crisis. The UN High Commissioner for Refugees (UNHCR) is facing a "financial crisis unprecedented in the almost 40 years of its existence," said an international relief agency official in Geneva.

In addition to major cutbacks in 1989, UNHCR has carried a \$40 million deficit into 1990, forcing the agency to make a \$20 million across-the-board cut in programs for the first six months, the official noted, and must make additional cuts if new resources do not become available.

While the agency has made efforts to maintain subsistence levels of aid in refugee camps, officials in Geneva have said that UNHCR "has begun reducing refugee food rations in some places." (See Refugee Reports, Vol. X, Nos. 7 and 11.)

In addition to its general program deficits, UNHCR officials say that a variety of special initiatives face shortfalls totalling more than \$31 million. These include implementation of the "Comprehensive Plan of Action" in Southeast Asia, assis-

RESETTLEMENT OF SOVIET JEWS, CHICAGO STYLE

About 5,000 Soviet Jews are expected to resettle in Chicago in FY 90, more than twice the level of any previous year. *Refugee Reports* talked with Joel Carp, assistant executive director of the Jewish Federation of Metropolitan Chicago, to find out how that agency is responding to these record-high numbers.

Since 1971, the Jewish Federation of Metropolitan Chicago has resettled about 11,000 Soviet Jews, a number which represents roughly 10 percent of the U.S. total. In the last two-and-a-half years, however, the agency's caseload has been climbing dramatically: 582 people in 1988, 1,686 in 1989, and 5,000 expected in 1990.

"We are seeing an average of 50 arrivals every three days," Carp said. "The impact on our resettlement system has been massive." To accommodate this influx, his agency has made "two major decisions":

"First, we are opening 'Shalom, The Welcome Center,' an orientation/assessment center where new arrivals will spend three days, at the end of which we will have developed a written case management plan with them."

Within one week of their arrival in Chicago, Carp explained, adult refugees will be taken by their host family to an orientation at the center, which will be based in the Chicago suburb of Skokie.

On the second and third days, the whole refugee family returns. Special schools will be set up for the children, while the

adults work with a case manager and go through a series of health, social, educational, and vocational assessments to determine what services will be needed. "In order to deal with this volume," Carp said, "we have to determine quickly who needs more services, particularly emergency services, and who needs less. We're doing triage."

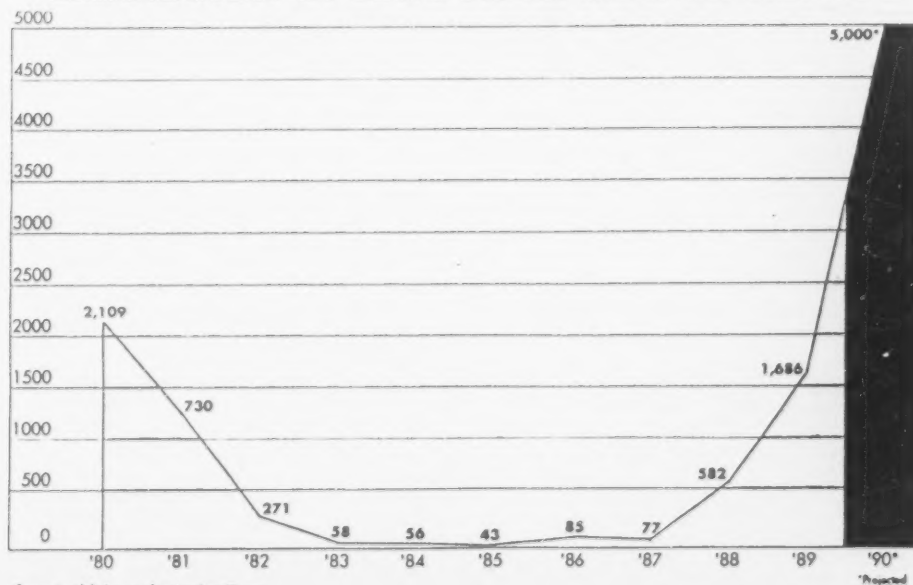
Second, in order to generate a targeted goal of \$7 million toward local resettlement costs, the Jewish Federation has been asking host families and sponsors to place a sum of money, based on their income and earning capacity, into an interest-bearing account to be spent by the agency on resettlement services for their refugee relatives.

Since November, host families have contributed an average of \$1,325 per refugee, and a total of more than \$1.1 million, Carp said.

It will cost the Jewish Federation of Metropolitan Chicago an estimated \$20.9 million to resettle 5,000 people this year. "That includes everything," Carp said, "in-kind contributions, as well as public and private funding." Federal and state funding, in the form of reception and placement grants, voluntary agency matching grants, and refugee social service contracts, will account for an estimated \$4 million of the total.

"We are matching federal money at a rate of four-to-one," said Carp. "We concentrate on heavy front-loading of services as well as investing in long-term acculturation. It's expensive, but there is a payoff: after 8 to 12 months, most of our employable adults are taxpayers."

EMIGRATION OF JEWS FROM USSR TO CHICAGO



tance to Romanians in Hungary, and repatriation programs to Namibia, Angola, Zaire, Ethiopia, Mozambique, and El Salvador.

"This is a worldwide crisis and it will need a worldwide response," said Roger Winter, director of the U.S. Committee for Refugees, "but leadership from the United States will be needed that so far has been lacking." Winter pointed out that from 1984 to 1989, the world's refugee population increased by 67 percent from 9 million to 15 million, while U.S. expenditures for overseas refugee assistance decreased by 8 percent.

"UNHCR, the International Committee of the Red Cross, the UN Relief and Works Agency for Palestinian refugees, and other international humanitarian agencies have seen the U.S. share of program contributions drop noticeably over this period," Winter said.

Currently, in FY 90, the State Department's migration and refugee assistance (MRA) budget is \$370 million, of which about \$175 million is designated for refugee assistance overseas.

"Conditions in Third World refugee camps are declining," said Winter. "The cuts UNHCR has been forced to make in nutrition and medical services are significant. Preventable deaths are now occurring, which more adequate resources could avoid."

ERMA Funds are Eyed for Admissions and Assistance With OMB so far blocking any Administration request for a budget supplemental and the State Department fast running out of funds for refugee admissions, Washington sources suggest that the \$50 million in the ERMA funds could be spent, at least in some part, on FY 90 admissions.

At the same time, these sources say, the State Department recognizes the crisis in refugee assistance overseas and the vital role that ERMA funds play in refugee emergencies.

"People all over the place have their eyes on ERMA," one source told Refugee Reports. "It's been spent twice over: once for admissions and once for assistance."

State Department officials would not comment on any immediate plans for the ERMA fund or the prospects for a supplemental budget request.

Supplemental is the Only Answer, Advocates Say "The only way out of this jam," said Winter, "is for Congress to approve a supplemental, with sufficient funds for admissions and assistance. The ERMA fund must be preserved to use for the type of urgent and unforeseen emergencies for which it was intended, such as responding to migration that may result from the emerging famine in Ethiopia."

"We do not have our eyes on ERMA," said Saperia. "We need to enlarge the pot, not move very limited money around. Someone is going to get hurt that way."

In a January 22 letter to President Bush, Sens. Patrick Leahy (D-Vt.) and Robert W. Kasten, Jr. (R-Wis.), said that the current refugee budget "is at least \$75 million too low to meet the 125,000 admissions you have approved. The refugee assistance portion of the budget faces a \$50 million shortfall. A supplemental...is essential."

Leahy and Kasten are chairman and ranking minority member, respectively, of the Foreign Operations Subcommittee of the Senate Committee on Appropriations.

New Funds for ORR Appear Unlikely The shortfall in admissions funding exists equally for ORR as it does for the State Department, local service providers say, but the prospects for an ORR supplemental seem all but hopeless. Instead, in order to contain FY 90 costs, ORR announced that federal reimbursement to states for cash and medical assistance to "categorically eligible" refugees will be reduced from 24 months to 4 months as of January 1.

Such a move will shift \$85.3 million in resettlement costs to the states, according to Ron Spandal, state refugee coordinator for Oregon. These cuts still may not be enough for ORR to live with its FY 90 budget, Spandal warned, and predicted that an additional \$16.3 million would be needed to meet federal obligations this year.

"The increasing burden on the state and local levels is going to prompt a backlash" against refugees," said Ed Silverman, refugee program manager in the Illinois Department of Public Aid. "It's approaching the crisis point. The Refugee Act of 1980 established a covenant, which the Reagan and Bush administrations have made efforts to back out of. In many ways, Congress has abetted it."

Update

° During the third week of January, Khmer Rouge guerrillas removed more than 4,000 Cambodian refugees from the UN-assisted camp of Borai in Thailand and relocated them across the border to Cambodia, international relief workers have told the Washington Post. Khmer Rouge leadership reportedly made the move in order to thwart UN efforts to transfer the population to Site K, a camp farther inside Thailand with better international access.

On Monday, January 22, gunfire broke out in Borai shortly after ten UN trucks had arrived to move any of the camp residents who wished to transfer to Site K, four miles away. No one got on the trucks, even though many refugees had told relief workers earlier that they wanted to make the move.

"We have evidence people were blocked from going," one relief official said.

By Wednesday, "only two-to-three hundred people were left in Borai...and they were busy dismantling the camp's houses," said Patrick van de Velde, deputy director of the UN Border Relief Operation (UNBRO). Borai, in the southern part of the Thai-Cambodian border, had held 4,400 people.

During the past year, the Khmer Rouge have allowed about 30,000 Cambodians to move from more inaccessible locations to the UN-aided camps of Site K and O'trao, according to relief workers, but they have also forced an equal number back into military bases and "repatriation villages" inside Cambodia, where the risks of malnutrition, disease, and military attack are greatly increased.

"The people are moving from a protected refugee camp to a jungle which is mined and malaria-infested," said Urs Boegli, Thailand representative for the International Committee of the Red Cross.

The Khmer Rouge, led by Pol Pot, are held responsible for the deaths of more than one million Cambodians during their short but bloody rule, before being driven out by a Vietnamese invasion in late 1978. Following a Vietnamese troop withdrawal in September 1989, the Chinese-backed Khmer Rouge have stepped up their guerrilla war against the Cambodian government in Phnom Penh.

° On January 15 and 16, the naked bodies of 11 Vietnamese women washed ashore in the coastal province of Nakhon Si Thammarat in southern Thailand, the apparent victims of a brutal pirate attack, according to the Bangkok Post. Each of the dead women, who ranged in age from 19 to 29, had a nylon rope tied around her neck. A Thai police officer said he suspected that the women had been tied together, pushed into the sea, then dragged behind the pirate's boats until they drowned. A doctor's examination showed evidence that some had been raped.

Two days later, three more bodies, also with ropes around their necks, washed onto another Thai beach 10 miles away.

Around the same time, the bodies of another 23 boat people washed ashore in northeastern Malaysia.

In 1989, 18 people died and 734 were missing due to pirate attacks in the South China Sea, according to regional reports.

° An increase in the number of Central Americans apprehended at the Texas border in the first two weeks of January--which would project to a tripling of the recent apprehension levels to about 1,000 per month--is occurring at a time when efforts appear to be underway to reduce the census of aliens in detention in south Texas.

About 60 percent of the recently apprehended Central Americans are from El Salvador, according to an INS source.

In many cases, the normally required \$3,000 bonds in the Harlingen district are being dropped, and aliens are being released on their own recognizance.

When questioned about the policy at his January 18 press conference, INS Commissioner Gene McNary said, "We have let loose some administrative detainees. We can't go over capacity. We must live within our budget."

McNary insisted, however, that INS was not emptying facilities to create space for an anticipated new influx.

An INS spokesman added that bond reductions are decided on a case-by-case basis. He said that the recent release of 75 people in a single day gave the impression about a change in policy. However, he said, that overall release statistics are "the same as they have been."



A Vietnamese woman sits in the tiny space assigned her and her family in the Chi Ma Wan Detention Center, Hong Kong. Women and children make up most of Hong Kong's refugee population.

UNHCR/A. Hollmann

Recent Developments

NO CONSENSUS ON FORCED RETURN OF VIETNAMESE

At a Geneva conference on Indochinese refugees held on January 23 and 24, the United States joined with Vietnam to block consensus on a compromise plan that would have halted the involuntary repatriation of Vietnamese asylum seekers until July 1. But as talks continue in Washington and Hanoi, British officials are insisting that forced repatriations will resume in Hong Kong, with or without U.S. agreement.

The United States, which previously had declared itself "unalterably opposed" to involuntary repatriations to Vietnam, had proposed a delay on forced returns until January 1, 1991. Vietnam had proposed a nine-month delay until October 1, with the

other 27 nations that form the steering committee to implement the "Comprehensive Plan of Action" (CPA) agreeing on a postponement until July 1.

"Agreement eluded us this time," Robin McLaren, assistant undersecretary in the British Foreign Office, told UPI, "but it was not the last time. People will now go away and think again. We believe repatriation is the answer whether or not people agree to return voluntarily. The only thing to decide now is when it should begin."

McLaren suggested that the meeting had achieved one breakthrough: "We have made mandatory repatriation under safeguards including monitoring" part of the CPA, which was endorsed last June in Geneva.

State Department spokeswoman Margaret Tutwiler said the United States remained opposed to the forced repatriation of Vietnamese "in principle and in practice," but had proposed the one-year moratorium so that alternatives could be "fully

**EXCERPTS FROM THE U.S. OPENING STATEMENT
AT THE THIRD CPA STEERING COMMITTEE
MEETING--Geneva--January 23, 1990**

We are here to review the whole CPA--not just one element--and we believe that one of the most critical elements in the CPA at this time is UNHCR's lack of resources. For example, there has been a report from UNHCR in Hong Kong that it is unable to review satisfactorily all of the cases screened by the Hong Kong authorities.... Likewise, UNHCR's monitoring capability inside Vietnam is critical to the credibility of the voluntary repatriation program and needs additional resources. Every government present here must try to find the resources UNHCR needs to ensure full implementation of the CPA...

The United States position on the issue of repatriation is...as follows:

--There should be full funding of the UNHCR appeal for implementing all provisions of the CPA.

--There should be full support and priority for the voluntary repatriation program.

--Vietnam should increase its processing and reception capacity for voluntary returnees, perhaps doubling it within the next four to six months.

--There should be a twelve-month moratorium beginning January 1, 1990 until December 31, 1990, after which mandatory repatriation would be allowed to go forward subject to the two other conditions set forth below:

(1) There would be no mandatory repatriation so long as there is a sufficient number of volunteers awaiting return.

(2) In accordance with the CPA, UNHCR would affirm that all provisions of the CPA are being fulfilled at each stage of the process before any mandatory return, i.e., proper screening and appeals, proper counseling on voluntary repatriation, and proper monitoring inside Vietnam.

If a consensus on these elements can be achieved, the U.S. would not block a Steering Committee consensus.... If there is no consensus...the U.S. could not support UNHCR monitoring of any mandatory returns, nor could we support international funding for actions taken outside the CPA.

tested."

In addition to the one-year delay, the U.S. delegation's opening statement, read by Senior Deputy Assistant Secretary of State Robert L. Funseth, had proposed that mandatory repatriation should not go forward "so long as there is a sufficient number of volunteers awaiting return." The U.S. proposal (see box) also would have required the UN High Commissioner for Refugees (UNHCR) to affirm that all provisions of the CPA--proper screening and appeals, proper counseling, and proper monitoring--are being fulfilled for voluntary repatriation before involuntary returns would be allowed to proceed.

More than 43,000 Vietnamese boat people have arrived in Hong Kong since June 16, 1988 when the government imposed a new screening policy, under which people approved for refugee status are allowed to seek resettlement overseas. The screened-out cases are designated as illegal immigrants, and their only alternative is to await eventual return to Vietnam.

Since the new policy was established, 7,278 people have been interviewed, with 818 screened in as refugees and 6,460 screened out, as of the end of November. About 800 Vietnamese have returned home voluntarily, and more than 2,000 have expressed an intention to do so.

During this same period, about 5,600 Vietnamese in Hong Kong have been resettled overseas.

On December 12, dissatisfied with the pace of voluntary return and resettlement, and eager to send a deterrent signal to would-be emigres still in Vietnam, Hong Kong forcibly repatriated 51 Vietnamese men, women, and children.

Following a storm of international protest, Britain postponed further returns in hopes, observers say, of reaching agreement with the United States on the issue at the steering committee meeting. Asked whether forced repatriations would be resumed immediately or held off until July 1, McClaren said, "I don't know. A decision is up to the government."

Several days after the Geneva meeting, new UN High Commissioner for Refugees Thorwald Soltenberg set out for Washington and Hanoi in search of the international consensus that so far has proven elusive.

"Whatever the outcome of these talks," Hong Kong refugee coordinator Mike Hanson told the Washington Post, "the government's policy remains that of repatriating those boat people who do not qualify for refugee status."

In a June 25 interview with a Hong Kong paper, however, Hanson suggested that additional forced returns would likely be postponed, at least until the UNHCR visits to the United States and Vietnam are concluded. "There can never be any large-scale repatriation to Vietnam," he said, "without the cooperation of the Vietnamese authorities, and that's why we need international consensus."

Women's Commission Denounces "Inhumane Conditions" in the Detention Centers

Following an eight-day visit in January to Vietnamese camps in Hong Kong, a delegation of the Women's Commission for Refugee Women and Children denounced the forced-repatriation policy and "inhumane conditions" in the detention centers. "Fear of forced return permeates the camps," the delegation said in a press release. "Children are afraid to go to sleep, fearing that their parents will be gone when they awaken."

The women's delegation, supported by the International Rescue Committee, was co-chaired by Liv Ullman, a Norwegian actress active in humanitarian issues, and Patricia Derian, former undersecretary of state for human rights and humanitarian affairs under President Jimmy Carter.

"The British are incarcerating Vietnamese boat people--most of whom are women and children--in appalling circumstances," said Susan Forbes-Martin, a member of the delegation and senior associate with the Refugee Policy Group. "They are warehoused in prisons behind barbed wire and towering concrete barriers. Living conditions are atrocious: overcrowded, overflowing sewers, many people lying side by side in tents or stacked three platforms high in large barracks. Malnutrition among children is rampant, as are a host of diseases such as scabies. Women are subject to sexual abuse and violence from both their fellow inmates



Refugees at the Whitehead Detention Center in Hong Kong protest repatriation plan. The New York Times/Marc Fallander

and their supposed guards."

Meanwhile, tensions in the camps remain high. On January 16, two Vietnamese men attempted suicide by slitting their stomachs with knives while in the presence of UNHCR officials, according to a human rights lawyer in Hong Kong. They were hospitalized in serious condition.

Then on January 25, two more Vietnamese men attempted suicide in the same way, according to the South China Morning Post. They were taken to Prince of Wales Hospital; the paper said their wounds were "not serious."

With UNHCR estimating that 5,000 Vietnamese would volunteer to go home in 1990, said Chris Bale, Oxfam director in Hong Kong, a delay in mandatory repatriation seemed reasonable. To push the issue too hard and too fast, he said, given "the terrifying mood in the camps, would only be asking for a bloodbath."

MALAYSIAN PUSHBACKS TOTAL MORE THAN 3,000

In the last nine months, Malaysian coastal patrols have towed or escorted back to sea at least 3,400 Vietnamese asylum seekers, according to the UN High Commissioner for Refugees (UNHCR). Five people are known to have died, but international relief officials have expressed fear that the number could be substantially higher, given the piracy that has plagued refugee boats for the past decade in the Gulf of Thailand.

Reports of the pushbacks first surfaced in June and July 1989. Between May 25 and July 7, UN officials said, Malaysian marine police towed 16 boats, carrying nearly 900 people, into Indonesian waters.

A local representative for UNHCR was quoted as being "surprised and disappointed" with the new practice, and, in a July 17 letter to the U.S. Committee for Refugees, a senior State Department official said, "We are doing all that we can to fully investigate these reports and have raised our concerns directly with senior Malaysian officials."

By mid-August, the number of pushbacks had grown to 1,200 and, according to the Washington Post, one Vietnamese man had drowned when his boat capsized while being towed back to sea.

Then, on October 20, according to a UNHCR press release, a Greek vessel rescued a group of 62 Vietnamese drifting in a boat off the coast of Borneo and brought them to Singapore. The survivors said they had left Cuu Long in southwest Vietnam on September 1. Three days after they set out, their engine broke down and could not be repaired. By the time the boat limped into Malaysian waters around October 14, three people had died.

When the boat was approached by a Malaysian vessel, the UNHCR statement said, "An English-speaking Vietnamese asked for help, saying the boat people were starv-

ing.... The group was given 40 liters of water, 5 kilos of boiled rice, and some vegetables. They claim to have been told they would be towed to shore. A tow rope was attached to their boat, and they were towed for approximately 19 hours. The tow rope was cut without warning and the boat set adrift. Two more people, a man and a woman, died of dehydration and starvation."

Another woman, who was pregnant, died in a Singapore hospital, leaving behind a four-year-old daughter.

Pushbacks Break International Agreement to Give Temporary Refuge to All Asylum Seekers

The disappointment felt by international diplomats was more acute in light of the fact that Malaysian Foreign Minister Datuk Abu Hassan Omar had chaired the international conference on Indochinese refugees in Geneva on June 13 and 14, where participants had pledged, among other things, that "temporary refuge will be given to all asylum seekers."

"It sets an extremely unfortunate precedent when an agreement is entered into one moment and repudiated at the next moment," said Eric Morris, UNHCR representative for Malaysia.

Some of the Vietnamese boats are being intercepted on the water and turned away, informed sources say. But many who reach Malaysian soil are not permitted to enter a UNHCR camp, but rather are detained in remote coastal areas for periods ranging from several days to several weeks before they are pushed back.

Malaysian officials at first denied that pushbacks were taking place, but in an interview with the BBC, Prime Minister Mahathir Mohamad acknowledged a "slight shift" in policy. "I'll admit that in the past, because of the assurances that these people will be resettled, we have allowed them to come in as easily as possible," Mahathir said. "But now we find that people are not giving that assurance, and our own people are beginning to get agitated... because of the need to give asylum to these Vietnamese boat people. We have no place for them."

1988 Signals Sharp Increase in Boat Arrivals in Malaysia For nearly a decade, Malaysia had maintained a stable policy toward Vietnamese boat people, granting

temporary asylum to more than 250,000, and offering permanent resettlement to 7,000 Cambodian and Vietnamese Muslims. Resettlement countries, particularly the United States, had responded in kind, and from 1980 to 1987, the total refugee population never rose much above 10,000.

But after a seven-year decline in arrivals and in camp populations, boat flows increased, from 8,016 in 1987 to 13,316 in 1988, then 16,710 in 1989. At the end of December, Vietnamese asylum seekers in three camps--Pulau Bidong, Sungei Besi, and Marang--numbered 20,475, according to the Joint Voluntary Agency Representative (JVA) in Malaysia. Of these, 12,407 arrived after a March 14 cut-off date imposed by Malaysia and the other members of the Association of Southeast Asian Nations.

The 8,068 Vietnamese who arrived before the cut-off date have been accorded automatic refugee status by UNHCR and are allowed to apply for resettlement in other countries. In 1989, 10,894 Vietnamese were resettled overseas, with 5,526 going to the United States.

The post-cut-off arrivals, on the other hand, must first undergo screening by Malaysian officials, and only if they are screened in will they be allowed to apply for resettlement. Under the terms of the "Comprehensive Plan of Action" drafted in Geneva last June, the screened-out are expected to return to Vietnam.

As of mid-January, only about 300 new arrivals had been screened, and no results had been announced. Screening is conducted in Marang camp by Task Force VII, a military group that is directed by the Prime Minister's office.

Within the pre-cut-off population, recently consolidated in Sungei Besi camp, about 500 people remain to be interviewed by the U.S. Immigration and Naturalization Service (INS) for refugee status, according to JVA. INS denial rates, which have averaged between 20 and 30 percent in recent years in Malaysia, were up to about 60 percent in December.

When U.S. refugee processing of pre-cut-off Vietnamese is completed, sources told Refugee Reports, INS will offer humanitarian parole status to up to 1,000 Vietnamese in Malaysia who previously were rejected for admission as refugees, but who have family in the United States. After

that, INS refugee interviews will be conducted only with post-cut-off screened-in cases.

CALIFORNIA, MASSACHUSETTS REPORTS FIND IMMIGRATION LAW LEADS TO JOB DISCRIMINATION

The California Fair Employment and Housing Commission released a report on January 11 charging a "widespread pattern and practice of discrimination...based on national origin and citizenship status" in California as a result of the federal Immigration Reform and Control Act of 1986 (IRCA).

Confusion and misinformation about the new law's requirements, as well as employers' fear of sanctions for hiring undocumented aliens, have been factors contributing to widespread discrimination, according to the report.

The report is based on testimony before three public hearings of the Commission, appointed by Governor George Deukmejian. The Immigration and Naturalization Service's (INS) "undue and disproportionate emphasis on enforcement of IRCA's sanctions provisions and its scant attention to the anti-discrimination protections" undermined the success of the new immigration law, said the Commission. It found that INS's training and outreach efforts have been "inadequate, and, in certain instances, have led directly to discriminatory practices."

The Commission found INS public education materials to be incomplete and confusing. The INS I-9 Employer Handbook, for example, fails to list or identify many documents that constitute legally acceptable proof of work authorization.

At his January 30 press conference, INS Commissioner Gene McNary said that the findings of the report were "based on testimony of those with a preconceived notion to testify against IRCA."

McNary added, "I have doubts you can prove IRCA leads to discrimination." He said that discrimination exists with or without IRCA, "so you can't prove whether they would have been discriminated against had there not been employer sanctions."

McNary did say that IRCA could be improved and could use "fine tuning on discrimination."

Survey Shows Extensive Discrimination in San Francisco The appendix to the California Fair Employment Commission report contains the report of a survey of 450 randomly selected employers in San Francisco by the Public Research Institute of San Francisco State University and the Coalition for Immigrant and Refugee Rights and Services. The survey found 97 percent of the businesses sampled to engage regularly in one or more discriminatory business practices under IRCA or other anti-discrimination laws. Half of the employers interviewed said that they thought that INS's documentation requirements made it riskier to hire people who speak limited English. A large proportion felt it riskier to hire Latinos (40 percent) and Asians (39 percent). (See chart, page 16.)

Massachusetts Study Shows Employer Discrimination A separate study conducted by Jennifer L. Gordon of Centro Presente in Cambridge, Massachusetts, based on interviews with more than 100 employers and more than 1,000 Central Americans in the Boston area, found that employers are discriminating against job applicants and workers in their attempts to comply with IRCA. Therefore, the report found, with fewer job opportunities, Central Americans are "willing to accept substandard working conditions and wages, created exactly the kind of easily exploitable 'underclass' that IRCA was allegedly designed to eliminate."

The Centro Presente report includes quotes from employers giving voice to discriminatory practices. Said one manufacturer, "Oh, yeah, after this law we stopped hiring the Haitians and stuck to the Portuguese. I figure the Portuguese are safe, but who knows about the Haitians?"

About 20 percent of employers flatly told Centro Presente that they do not comply with the law at all. "You know damn well if I went downstairs to my workers with these forms no one would show up for work tomorrow," said one food processing plant owner.

Many of those who thought they were complying, were commonly confused about INS forms and documentation requirements. In two cases at two different hotels, a Salvadoran man and a Guatemalan were fired after they showed valid INS I-94 work permits. When shown the proper form by Centro

Presente, the hotel employer said, "I've never seen one of those before, and I don't want to get in trouble. I'm just playing it safe."

For others, "playing it safe" means even more blatant discrimination. A food preparation manager said, "This law is for immigrants, but what is an immigrant anyway? Is a Polack an immigrant? What about an Italian? If they come from England, they're not an immigrant, are they?"

Resources

VIDEO SERIES HELPS REFUGEES ADJUST TO LIFE IN AMERICA

Immediately after escaping from their countries, many refugees face treacherous travel, the threat of attack, illness, and deep uncertainty. Many see their friends and family members killed. Once in America, they are expected to adapt quickly to our land, our food, language, and culture.

To help ease this transition, Pacific Standard Television of Portland, Oregon, has made available a series of eighteen educational programs in fifteen languages. These videotapes, along with supplementary curriculum materials, address difficulties newly arrived refugees often face. Fifteen of the series are for refugee audiences themselves, and the remaining three are cross-cultural programs for police and court officials, and for the general public.

The law-related topics for refugees include: Adjustment to a New Way of Life; Introduction to American Law; Here to Help: The Police in America; Good Neighbors; Family Law in America; Motor Vehicles and the Law; and Fishing, Hunting, and Firearms.

Tapes for refugees on socio-cultural topics include: Refugee Youth in America; Introduction to American Public Schools; Refugee Women in America; Understanding Health Care Services; Understanding House and Apartment Rental in America; How to Avoid Crime in America; Understanding Financial Services; and Living in a Consumer Society.

Cross-cultural tapes for use by those who work with refugees include: In a Strange Land: Police and the Southeast Asian Refugee; Culture, Class, and the Law

in America; and Cultural Diversity: Meeting the Challenge.

All of the video programs for refugee use are available in English, Vietnamese, Khmer, Laotian, Hmong, Mien, Korean, Russian, Polish, Romanian, Tigrinian, Amharic, Dari, Farsi, and Spanish.

Each program costs \$52.00, plus \$5.00 shipping and handling. Each package contains a program video in your choice of language; student tests and worksheets in English; presenter's guidebook; and suggestions for activities and discussions. A free preview tape (in English) is available. For orders or information, contact Newcomers to America, PST Video Products, P.O. Box 339, Portland, Oregon 97207-0339. (800) 776-1610.

VIDEOTAPE TRACES SUCCESS OF DALLAS POLICE REFUGEE STOREFRONT

Four thousand refugees live in the east Dallas neighborhood served by a unique storefront office run by the Dallas Police Department. Local officials and refugees alike see the storefront as the reason that every kind of crime in the area--from robberies to murders--has declined in the last few years (see Refugee Reports, Vol. VII, No. 8).

The story of this groundbreaking outreach program is now available on videotape, "The Gift of Rice: The Dallas Police Refugee Storefront."

The crux of the problem, says Dallas Police Sergeant Dan Bell, who works in the storefront, is to redefine the meaning of police for Southeast Asian refugees. "In their societies, the police were an extension of oppressive military regimes," he says. "The refugees had a natural reluctance to trust any police officer, and they brought that distrust with them. We have to teach them that we are not an occupying army. We're here to help them."

That help comes in many forms, not all the traditional role of a police station. While the city picks up the costs of salaries, local foundations pay rent on the building. Scout troops and mutual assistance associations meet in the building. Sponsoring agencies make the storefront one of their first stops in introducing new refugees to sources of help. Volunteers

collect and distribute clothes and food.

Corporal Ron Cowart, who runs the program, thinks an important key to resolving distrust lies in the three public service officers (PSOs)--Lao, Cambodian, and Vietnamese--who, as unarmed, uniformed police, walk the beat in the neighborhoods, keeping the level of communication high, and teaching Southeast Asians that it is safe to report crimes committed against them.

The video, produced by the Office of Refugee Resettlement and the Dallas Police Department, is available for use by organizations interested in learning about the Dallas program. For further information, contact Corporal Ron Cowart, 1500 Marilla, Room 7A North, City Hall, Dallas, Texas 75201. (214) 670-4384.

DIRECTORY OF REFUGEE AND IMMIGRATION AGENCIES AVAILABLE

Detailed information on more than 1,000 local, regional, and national organizations concerned with refugees and immigrants can now be found in a new directory produced by the Denali Press.

Refugee and Immigrant Resource Directory: 1990-1991 lists agencies by state with cross references by type of services provided, clientele, and religious affiliation. Current names and addresses of INS offices and the Executive Office of Immigration Review are also included. The directory also features key documents and statistics, chronologies (from Refugee Reports) and a glossary, as well as an essay by Rep. Stephen J. Solarz (D-N.Y.).

To order the 350-page directory, send \$37.50, plus \$2.50 for shipping, to the Denali Press, P.O. Box 021535, Juneau, AK 99802-1535. (907) 586-6014.

THE WORLD REFUGEE SURVEY--1989 IN REVIEW

Refugee Reports subscribers will soon be receiving a free copy of the U.S. Committee for Refugees' World Refugee Survey, the authoritative annual report on the conditions of the world's refugees. To order more, send \$8 for single copies, \$6 for 10 or more, to the U.S. Committee for Refugees, 1025 Vermont Ave., NW, #920, Washington, DC 20005. (202) 347-3507.

**U.S. REFUGEE AND ASYLUM PROGRAMS AND
POLICIES: A 1989 CHRONOLOGY**

The following is a chronology of U.S. program, policy, and legislative decisions affecting refugees and asylum seekers during 1989. The listing is taken from articles that appeared during the year in Refugee Reports.

January 9: U.S. District Judge Filemon Vela issues a temporary restraining order halting the Immigration and Naturalization Service (INS) policy of preventing onward travel for asylum seekers. The order frees hundreds of Central Americans to move from Harlingen, Texas, near the Mexican border to cities of their choice farther inside the country.

February 20: Judge Vela lifts temporary restraining order. INS announces it has begun to implement a plan "to stem the flow of frivolous asylum claims filed by aliens seeking to stay in the United States."

The plan is intended to bring about quick determinations of affirmative asylum claims; to detain asylum seekers in the south Texas area; and to begin prompt deportation proceedings for those denied asylum.

March 10: Affirmative asylum applications in Harlingen drop to zero. Tents are constructed in INS detention facilities to accommodate overflow of undocumented aliens apprehended in the Lower Rio Grande Valley. The Red Cross sets up a "soft-detention" facility for women and children in Brownsville.

March 14: Secretary of State Baker announces that the State Department is seeking \$100 million in supplemental funding for the resettlement of additional numbers of Jews and other refugees from the Soviet Union in FY 89.

March 30: The General Accounting Office issues its findings on INS processing of Soviet refugee applicants. It reports a U.S. denial rate in Rome of 11 percent in January, 19 percent in February, and rising to 36 percent in March. Overall, 61 per-

cent of applicants in Moscow have been denied so far in FY 89.

March 30: A federal appeals court upholds the convictions of eight people in the Tucson sanctuary trial on charges of conspiracy and harboring and transporting undocumented aliens. The court rules that the religious beliefs of the eight are not relevant to their defense.

May 1: U.S. District Judge David Kenyon issues a preliminary injunction against INS requiring that Salvadorans be advised of their rights before being deported. Kenyon says that INS has violated his previous order from the Orantes-Hernandez class-action suit requiring that Salvadorans be informed of their rights to be represented by an attorney and to apply for political asylum.

May 15: The U.S. government resumes deportations of Nicaraguans, after a seven-month period in which none had been deported.

May 24: House passes a \$3.7 billion Dire Emergency Supplemental Appropriations bill that provides \$85 million for refugee admissions and another \$15 million for refugee relief and assistance overseas in FY 89.

The \$85 million covers overseas processing and admissions costs for 22,500 additional refugees, as well as providing full federal funding to 6,000 existing admissions spots that had previously been semi-funded. Of the 28,500 additional numbers, 24,500 are allocated to the Soviet Union.

May 31: The INS completes a final review of more than 10,000 Cambodians in Khao I Dang who previously had been denied resettlement in the United States. INS overturned about 24 percent of its original denials.

June 6: Attorney General Thornburgh directs the INS to extend for up to one year the visas of Chinese citizens currently in the United States.

June 14: At a two-day International Conference on Indochinese refugees in Geneva, the U.S. and other nations agree on a plan

of action aimed at curbing the exodus of asylum seekers from Vietnam, and promoting voluntary repatriation back to Vietnam.

July 13: A compromise legal immigration bill that would increase the number of professional and skilled immigrants to the United States passes the Senate.

July 31: The U.S. government and the Socialist Republic of Vietnam announce the signing of a draft agreement to permit the legal emigration of released reeducation camp prisoners and their close family members.

September 11: U.S. District Judge Robert Peckham rejects government arguments to dismiss American Baptist Churches v. Thornburgh, a lawsuit charging the U.S. with discriminatory treatment against Salvadoran and Guatemalan asylum seekers.

September 15: The Administration unveils plans to terminate the Rome/Vienna pipeline of Soviet emigration and to begin all refugee processing out of the U.S. embassy in Moscow.

It also requested 50,000 refugee places for the Soviet Union in FY 90, within a total worldwide admissions ceiling of 125,000. The FY 90 budget request falls \$58 million short of covering the requested admissions.

September 28: U.S. District Judge David Kenyon once again finds the INS to be in violation of his injunction in the Orantes-Hernandez class-action suit requiring it to inform Salvadorans in INS detention of their right to apply for asylum and to provide them with access to attorneys, lists of free legal services, legal rights materials, pencils and paper, and telephones.

October 25: A bill that would provide temporary safe haven for Nicaraguans, Salvadorans, and Chinese nationals in the United States passes the House of Representatives.

November 3: Ambassador Princeton Lyman, director of the State Department's Bureau for Refugee Programs, predicts that asylum approval rates for Eastern European appli-

cants will decline in the coming year due to improved human rights conditions in that region.

November 6: U.S. District Judge William P. Gray rules that immigration judges violate the constitutional rights of non-English speaking aliens in immigration proceedings by failing to translate the entire proceedings into the alien's language.

November 21: President Bush signs into law the Foreign Operations Appropriations Act, allocating \$370 to the State Department for migration and refugee assistance programs and an additional \$50 million for refugee emergencies.

It contains provisions that require the Attorney General to establish categories of people from the Soviet Union, Vietnam, Laos, and Cambodia "who share common characteristics that identify them as targets of persecution" for purposes of U.S. resettlement.

November 21: President Bush signs into law the Labor/HHS/Education Appropriations Act. The Act allocates \$13.5 million less than was available for ORR resettlement programs in FY 89, despite the fact that the admissions ceiling has increased from 116,500 to 125,000.

November 22: The State Department announces that the United States will no longer register Polish and Hungarian refugee applicants in Western Europe for U.S. refugee resettlement and that the United States will only interview for admission Polish and Hungarian applicants who have already registered for resettlement and who have close family ties to the United States.

November 30: President Bush vetoes legislation that would have permitted Chinese students now in the United States to adjust to permanent resident status without first returning to China for two years, as is generally required by J-1 visas.

Bush also announces that he has instructed Attorney General Dick Thornburgh "to take the steps necessary to extend administratively to all Chinese students in the United States the same benefits that H.R. 2712 would have extended."

PERCEPTIONS OF RISK IN HIRING UNDER IRCA BY FIRM SIZE
A Survey of San Francisco Businesses

"Do you think the INS's documentation requirements make it riskier to hire any of the following groups of people? I'll read you a list: (a) people who speak limited English (b) Latinos (c) Asians."

	HOW MANY EMPLOYEES					
Riskier-Hire Employee	4-15	16-40	41-100	101-250	250+	TOTAL
Limited English?	60% (103)	47% (46)	39% (21)	36% (12)	27% (7)	50% (N=381)
Latinos?	50% (87)	35% (35)	26% (14)	35% (12)	20% (5)	40% (N=385)
Asians?	50% (87)	36% (36)	24% (13)	29% (10)	24% (4)	39% (N=387)

Source: Employment and Hiring Practices under the Immigration Reform and Control Act of 1986: A Survey of San Francisco Businesses. A preliminary report produced by the Public Research Institute of the San Francisco State University and the Coalition for Immigrant and Refugee Rights and Services.

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INSUFFICIENT AID, INCREASED FIGHTING FURTHER THREATEN FAMINE-STRICKEN NORTHERN ETHIOPIANS

[On February 6, Refugee Reports staff writer Hiram A. Ruiz returned from a three-week site visit to Eritrea. He was part of an InterAction fact-finding team that traveled to areas under the control of the Eritrean People's Liberation Front (EPLF) to assess the severity of the famine there, the relief effort, and the potential for large-scale population displacement.]

Barren Fields Eritrea, a rocky and mountainous province of northern Ethiopia, even without drought depends on international food aid for 30 to 40 percent of its annual food requirement. Eritrea does have some potentially good farmland, but as we drove deeper into the region, the full impact of last year's drought became evident. Fields were dry, dusty, barren. The dried-out stubble of failed crops was all we could see. In six days of driving through Eritrea, only once did we see anything growing, and that was a small plot cultivated by the students of a secondary school, who irrigated the plots manually, carrying water from a nearby stream. "Crop production in 1989 was only 20 percent of that in 1988," an Eritrean Relief Association (ERA) official told us. "That's only enough to feed the country for two months."

The Initial Response Unlike 1984-85, when the Ethiopian government withheld information about the famine until it was too late, this time the international community has known of the potential for renewed famine for many months. A famine early-warning system now in place raised the alert as soon as last year's rains failed, causing widespread drought and crop losses throughout much of northern Ethiopia. Soon after, ERA and Relief Society of Tigray (REST) officials--and later the Ethiopian government (through the UN)--began asking for increased international aid.

The international community--the United States in particular--has responded, and more than a third of the food needed has been pledged or is on its way. But much of it has gone to where it is least needed. Three out of every four people at risk live in areas controlled by the EPLF, the Tigray People's Liberation

IN THIS ISSUE:

Famine once again threatens the people of northern Ethiopia. If more food aid does not reach them soon, they may leave their villages on a dangerous trek in search of food. Refugee Reports visited Eritrea to assess their condition first-hand.....1

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"As we drove deeper into the region, the full impact of the drought was evident. Fields were dry, dusty, barren. The dried-out stubble of failed crops was all we could see."

Photo credit: USCR/Hiram A. Ruiz

Front (TPLF), and other nongovernment forces, yet the vast majority of food aid has gone to the few areas of northern Ethiopia still under government control. In January, warehouses for ERA and REST--which deliver and distribute food aid to EPLF and TPLF-held areas respectively--were empty.

At least for the people of Eritrea and Tigray there are systems in place to attempt to respond to their needs. The 1.5 million residents of drought-affected areas of Wello under rebel control have no such system. Continued fighting near their home areas will make it difficult for them to cross into food distribution points in government areas, and many could migrate into Tigray in search of food.

I Prefer to Die on My Own Land The team interviewed a number of farmers and other Eritreans in their home villages. We sought information on their food production during 1989, the extent to which they were already dependent on food aid, how they viewed food availability during the coming months, and what steps they would take if food was not

forthcoming in their home villages.

At a small village in the Zara area, we met a group of sedentary pastoralists, who live in their village year-round and do some farming, but mainly depend on their livestock. They told us that they had not been able to grow any crops at all. Worse yet--for people whose livestock are their livelihood--there was little grass and not enough water for their animals. "We have to take our animals a long way for fresh grass now," one man told us. Asked how he planned to cope with the situation, he told us: "We will look for anything we can find to feed them, like cutting from the top of trees. The last thing we will have to do is to sell them."

Most of the farmers in the village are already dependent on food aid. "When we wake up in the morning, we hope that ERA will call us for food distribution that day," one farmer told us. "When we go to bed at night, we hope they will call us the next day." If there is not enough food from ERA, would they leave, we asked? "We don't leave our land. This is our home. If worse

comes to worse, we will eat our animals. But we won't go to Sudan. We would try to get by here."

In the village of Eroda, on a normally fertile but now barren plateau high atop the mountains, we met 80-year-old Ali Muse. Muse said that he had not received any food aid yet, because until recently he had food stocks from previous years. But now that has ended and, until he can get food from ERA, he is selling some of his goats in order to buy it. "Before, I had 5 camels, 10-15 cows, and other animals--but that was in the past. I don't like to think about what is past," Muse told us. Several of Muse's relatives left Eroda during the 1984-85 famine and are still living in Sudan. We asked him if he would join his relatives in Sudan if he couldn't get food in the village. "Me? 'Wallahi!' First of all, I'm not as strong as the others, so I can't go to that place. Second of all, I prefer to die on my own land."

Problems Associated with Mass Migrations

One of the lessons that the international community learned from the 1984-85 Ethiopian famine is that large-scale population displacement is a major reason for high rates of serious illness and death. People often do not leave their villages and homes until they are already out of food and in a weakened physical condition. The trek across inhospitable terrain--for days or sometimes weeks--in search of food further weakens them. Many die en route. Others who arrive at food distribution centers or refugee camps are too weak or ill to be able to eat the food that they find, and they also die. Those who survive the trek must face the many diseases and epidemics that are rampant when massive populations are thrust together in one place, often without an adequate water supply, basic sanitation, or enough food.

ERA does not want to see mass migrations of people in search of food, and their relief effort is directed towards that. They have set up 40 food distribution points within Eritrea, and estimate that all Eritreans are within a three-day walk of a food distribution point. According to ERA's Gebremichael Mengistu, while ERA's ability to respond to the current crisis is significantly higher than in 1984-85, they need more trucks and food in order to

distribute food to all those in need in their own villages.

At present, it seems possible for people in Eritrea to be able to remain in their villages until mid-April, when the planting season begins. If that is the case, and they can be provided with seeds to plant, if at least a survival level of food can be distributed through the rainy season, and if the rains come and the crops grow, most Eritreans are likely to remain in their homes. But those are a lot of "ifs"--and time is running short.

"The rainy season is the hungry season--yet it's when our transport capacity is at its lowest, because roads become impassable," said Mengistu. "That's why we

Although 80 year-old Ali Muse has several relatives living in refugee camps in Sudan, he said that he wouldn't go there, even if he had no food. "I prefer to die on my own land," he told Refugee Reports.

Photo credit: USCR/Hiram A. Ruiz



need to get maximum food coming in now, before the rains." If aid is not forthcoming, Mengistu added, "definitely some people would be forced to leave their home villages." Should that happen, ERA reportedly has made some contingency plans for those who become displaced within Eritrea.

Intensified Fighting Disrupts Food Delivery Another "if" looms on the negative side--in recent weeks, fighting in the region has escalated. In mid-February, the EPLF has launched a major assault on Massawa, a government-held port through which most food aid to government-held areas enters. The attack has shut down the port, and some of the food that was stored there has reportedly been destroyed. How this intensification of the war in Eritrea will affect the food distribution process throughout the region remains to be seen.

Fighting has also been an important factor in Tigray, where the TPLF has driven government forces completely out of the province. Eastern Tigray was severely affected by the drought. There is little if any food there. Western Tigray, however, has some food surpluses, and it is possible that Tigrayans from the east may move to those areas. Whether they remain in Tigray rather than continue on to Sudan will, however, will depend on the extent to which REST has the resources to assist those who become displaced within Tigray. A possible indicator of what is to come: a recent report from the World Food Program stated that 5,000 Tigrayans have moved into the Senafe area of Eritrea, and 3,000 others into the Adi Quala area, in search of food.

Migrating to Sudan In 1984-85, hundreds of thousands of Ethiopians made their way to existing refugee camps in Sudan. Most returned home after the famine. Although ERA and REST would prefer that any large-scale displacement be contained within Eritrea and Tigray, migrating to Sudan may remain an option for many people. But the situation in Sudan is much changed from 1984-85, and this could be a very bad time for victims of the famine to go there. Already, Ethiopian refugees in Sudan are suffering due to the serious funding crisis that UNHCR is experiencing. Malnutrition rates have gone up and food distribution has been uneven. Several private agencies



In late January, ERA and REST's warehouses were empty. The only commodities to be seen were a small amount of grain, and several hundred cans of vegetable oil, seen above being loaded for delivery to food distribution points in Eritrea.

Photo credit: USCR/Hiram A. Ruiz

that assisted refugees in the camps are pulling out of Sudan because of difficulties they have met with the Sudanese government. [See related story, p. 6.]

Because of its funding crisis, UNHCR is not able to prepare for a potential but uncertain influx from Ethiopia. If there is an influx, UNHCR officials in Khartoum told us, the organization would have to appeal to the international community for assis-

tance--but their response might take time, while UNHCR's response to the influx would have to be immediate.

The attention of the military government of Sudan (which took power in a June 1989 coup) is focused on the war in the south. The Sudan People's Liberation Army (SPLA) recently launched a major offensive, attempting to gain control of the main government-held towns in the south. It is feared that the intensified fighting, and the suspension of Operation Lifeline Sudan--the UN-sponsored relief program that was delivering food to the beleaguered civilian population of southern Sudan--may contribute to renewed famine in southern Sudan.

It is thus quite unlikely, most analysts agree, that the Sudanese government would welcome a new influx of famine victims from Ethiopia--and that appears well-known within Eritrea. Many of the Eritreans we spoke to cited the problems in Sudan as one of the reasons they would not go there.

Recent Developments

HUNGER COMMITTEE LOOKS AT THIRD WORLD REFUGEE CRISIS

On February 8, the House Select Committee on Hunger held a hearing on "The Crisis of Third World Refugees," featuring government witnesses, the UN High Commissioner for Refugees (UNHCR), the U.S. Committee for Refugees (USCR), and former long-term camp inhabitants from Cambodia and Ethiopia.

Rep. Tony P. Hall (D-Ohio), the new chairman of the committee since the tragic death of Rep. Mickey Leland, opened the hearing by saying that the current refugee crisis is the result of continual growth in the world refugee population, combined with a reduction in available funds for assistance.

"Since 1984, the world refugee population has grown from about 9 million to more than 15 million in 1990," said Hall. "Yet in that same period, U.S. support has dropped 22 percent."

Hall noted that Secretary of State James Baker had recently called for a \$70 million supplemental to pay for the resettlement of 27,000 Soviet refugees in the United States. "Many members of Congress, in particular

this member," said Hall, "believe that an additional \$50 million should be added to the supplemental appropriations bill to address the urgent needs of the 15 million refugees in the Third World." Hall called it a "paradox of money resources" for \$70 million to be requested for 27,000 refugees and zero dollars for 15 million refugees.

Government Witnesses Acknowledge Problem

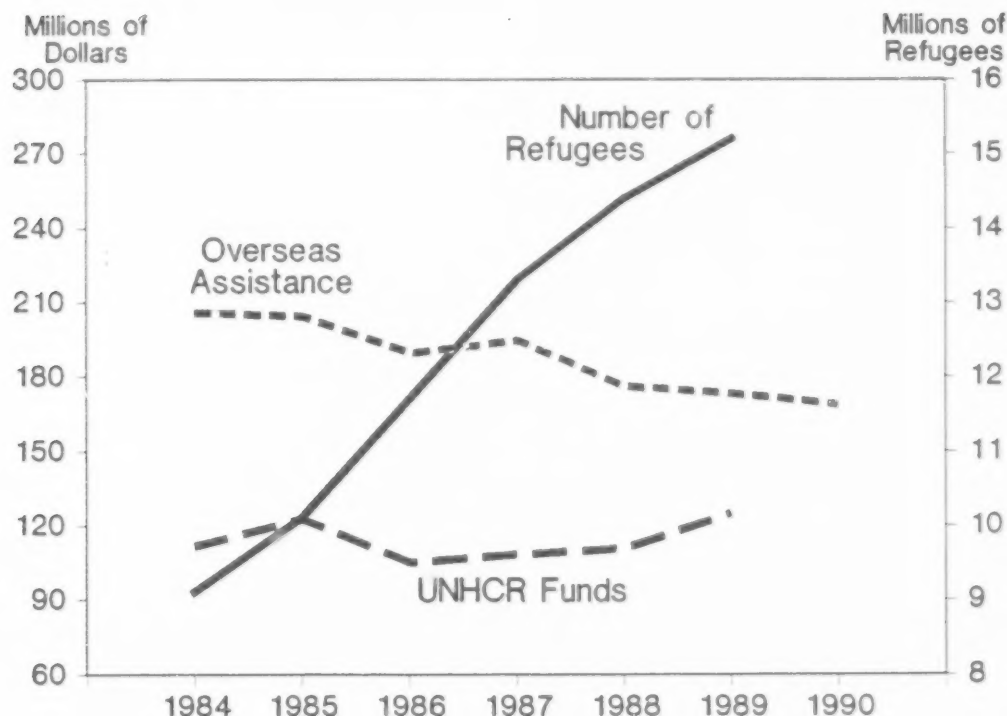
The U.S. Coordinator for Refugee Affairs, Ambassador Jewel S. LaFontant, acknowledged that, given U.S. government budget constraints, "the amount of funding available for international assistance needs has not kept up with the increase in refugee numbers worldwide and the expanded requirements for both on-going programs and new emergency situations."

LaFontant said that the \$70 million supplemental request would alleviate budget pressures this fiscal year, and that "depending on how refugee admissions proceed throughout the fiscal year, there may be some funding available for urgent refugee assistance needs." She said that there is still room in FY 90 to "draw down" on \$50 million in the Emergency Refugee and Migration Assistance (ERMA) Fund and that the Administration would request an additional \$47 million for the FY 91 budget for international refugee assistance.

Gerald Walzer, head of the program management service for UNHCR, said that his agency had to "drastically reduce" programs in all regions in 1989 due to the funding shortfall, and that austerity measures are being reinforced for 1990. Among the consequences of the cutbacks highlighted by Walzer are:

- ° the drying up of buffer stocks of emergency relief items for continuing refugee influxes;
- ° reduction of infrastructural work, for example, water systems, so that refugees have access to less water and of lower quality;
- ° substantial cutbacks in construction of new educational facilities that "will result in fewer basic educational opportunities for refugee children";
- ° restricted distribution of basic relief items such as blankets, tents, heating and cooking fuel, etc.; and
- ° fewer resources for local settlement and income-generating activities.

More Refugees, Fewer Dollars



Overseas assistance funds from U.S. Migration & Refugee Account.

Source: House Select Committee on Hunger

USCIR director Roger Winter provided details on the effect of UNHCR cutbacks on refugee lives, particularly in Africa. He said that 125,000 to 225,000 refugee children are today suffering from acute malnutrition, with malnutrition rates for children in some countries reaching 30 percent.

"Unless something is done now," said Winter, "1990 will be hell for refugees in Ethiopia, Sudan, Somalia, and Malawi, simply based on inadequate resources at UNHCR and WFP." He said that UNHCR is "essentially taking no steps to prepare" for movement out of Ethiopia due to impending famine. "It simply doesn't have the money."

Winter asked why ERMA funds have not already been used by the State Department "to relieve the needs so obviously life-threatening and crippling." He speculated that they have been withheld to see if this year's "built-in shortfall of funds for refugee admissions" will be covered by a supplemental FY 1990 appropriation. He

warned, "Any lag in utilizing ERMA fully has critical human costs" and said that these emergency funds "cannot justifiably be held in reserve until June or July to see if a supplemental for resettlement is enacted."

Winter said that a \$50 million supplemental for assistance is needed in addition to the \$70 million for resettlement. He proposed that the United States set two benchmarks for overseas refugee assistance: 1) per-capita support of refugees set at \$25 annually, and 2) a 25 percent share of contributions to UNHCR and the other international humanitarian agencies assisting refugees.

PVOs PULLING OUT OF SUDAN

Several American and European agencies that have been working with refugees and displaced people in Sudan have ended or tempo-

rarily suspended their operations in that country and are withdrawing their personnel.

Aid workers in Sudan say that since the military took power in Sudan in June 1989, PVOs have found it increasingly difficult to carry out their operations. One European aid worker in Khartoum told Refugee Reports that, while it is normal to face some difficulties, "The Sudanese bureaucracy is making it impossible for us to operate." "We can not get visas or travel permits for our staff, we can't get diesel for our vehicles, and clearing goods from the port takes months--we have not been able to import any spare parts in 16 months."

The fact that PVOs and international organizations have to exchange dollars for local currency at a rate that is several times higher than the actual market rate has made implementing programs in Sudan very expensive. The same aid worker said, "It seems that this Sudanese government does not want us here."

Security is another concern. Several Western aid workers have been killed in recent incidents. At Khartoum airport, an aid worker who was on her way out of the country expressed concern about colleagues who remained behind. "The army confiscated all of our radio equipment," she told Refugee Reports. "Some of our staff members are still working in towns far from Khartoum--and we're not able to contact them. It's worrying."

U.S. BEGINS RESETTLEMENT OF VIETNAMESE POLITICAL PRISONERS

Last July, after years of unsuccessful negotiations, the United States and Vietnam reached an agreement to allow former reeducation camp detainees and their close family members to resettle in the United States. Interviewing began in October, and the first group of 190 people arrived on January 12 at San Francisco airport as part of the Special Released Reeducation Center Detainees Resettlement Program.

A total of about 1,000 political prisoners and their families arrived in January and February, according to U.S. government figures, and between 7,000 and 8,000 are expected to be resettled in FY 90. More than 90 percent of former prisoners and family members are resettled with refugee

status, according to the State Department, with the remainder coming as immigrants or parolees.

There are about 130,000 applicants currently on file with the Orderly Departure Program (ODP) who may be eligible for the special detainee resettlement program, and Vietnamese government officials cite even higher figures.

But as this long-awaited population begins to enter American communities around the country, numerous questions are being asked by public and private service providers and the Vietnamese-American community: What do we know about the needs and expectations of these former prisoners? What plans and resources are being put in place for this group, and are these adequate? Questions are being raised about admissions ceilings and the use of nonrefugee status for detainees, as well.

As part of a process to develop appropriate resettlement strategies for former reeducation detainees, the Office of Refugee Resettlement (ORR) held a hearing on January 31 in Washington, DC, at which 24 commenters presented their views.

"There are a number of constituencies in the U.S. to whom the emigration of this special population is of great interest and concern," said Le Xuan Khoa, president of the Indochina Resource Action Center: "families and friends anticipating long-deferred reunions with their loved ones; state, county and other local governments, for whom these newcomers are both an asset and a challenge; voluntary agencies who will carry on their traditional task of reception and placement; Vietnamese mutual assistance and community associations, anxious to assist their countrymen and share the experience gained as they rebuilt their own lives in the U.S.; and the United States government, for whom the establishment of this program is the fulfillment of a historical and moral obligation."

Service providers--be they state and local governments, voluntary agencies or Vietnamese MAAs--"will expect adequate resources to do an adequate job," Khoa said.

Detainee Profiles Are Sketched Although comprehensive studies of reeducation camp detainees have not been conducted, profiles have been sketched. About 80 percent of the former detainees served in the South Viet-

namese military, according to records maintained by the Families of Vietnamese Political Prisoners Association (FVPPA), a non-profit, Vietnamese community organization. Another 15 percent were civil servants and about 5 percent were religious leaders.

After being released from reeducation camps, detainees "were unable to get jobs, land, continue their education, or acquire housing" in Vietnam, said a FVPPA report.

Former prisoners have spent from 3 to 14 years in reeducation camps, and are typically in their mid-40s to mid-50s. The average family size is five people, and more than half have relatives in California.

In September 1989, the International Catholic Migration Commission (ICMC) released a study of 102 former reeducation camp prisoners done at the refugee processing center in the Philippines. In addition, ICMC conducted interviews with 5 former detainees in Ho Chi Minh City. According to the study,

Reeducation camp detainees have had to deal with the trauma of imprisonment, both physically and emotionally. They were separated from their families for prolonged periods of time. They lost the legal status to hold jobs or to own property. They were forced to comply with routine accountability of their actions and movements with the local authorities. They were reduced to playing a secondary role in the everyday survival of their family. They look outside Vietnam, rather than inside it, for a future they have no control over.

While resettlement service providers are fearful of further stigmatizing the detainee population, most acknowledge that many detainees will have special health and mental health needs resulting from the trauma and deprivation of prison life, their generally unproductive roles in Vietnam following release, and the difficulty of adjusting to a new country while readjusting to long-separated family members.

Many former detainees have unrealistic expectations about the kinds of assistance they will be offered, according to service providers. Comments from recent arrivals indicate that some of the detainees expect such things as free housing and back pay for their period of imprisonment.

"Long isolation from economic and cultural activity has created an 'out-of-touch' mentality for many, and re-entry must be carefully assisted," according to a statement at the ORR hearing by the Indochinese Mutual Assistance Association (IMAA) in San Diego. "Family separation may create a sense of alienation, and yet the family tie is a vital link in successful transition. In addition, there will be unrealistic expectations for quick success that will result in frustration.... These special problems will require immediate attention."

To meet the special needs of former prisoners, IMAA recommended the provision of "more extensive reception services; careful, personal orientation as well as group orientation; personal and family counseling; and health screening and services."

ORR Hopes to Give \$1 Million in Special Funds

Whatever the special needs of the detainee population, it appears that little additional federal funding will be available. The State Department has indicated that initial reception and placement grants to voluntary agencies will not be adjusted for detainee resettlement. The new director of ORR, Chris Gersten, has said that he expects ORR will make available about \$1 million in FY 90 for special resettlement activities targeted to former prisoners.

Gersten's comments were made at a February 14 meeting of a working group convened by ORR to assess resettlement needs of former political prisoners. Participants in the working group include federal agencies, state coordinators, MAAs, voluntary agencies, and other specialists.

Recommendations of the working group are not expected to be available until the end of March, an ORR official told Refugee Reports. Some of the activities participants have recommended for ORR funding, the official said, include peer support and counseling, outreach, and orientation.

Gersten also said that the special ORR funds might be provided on a matching basis, in order to encourage contributions from states or local organizations. He was not referring to the voluntary agency matching grant program, an ORR source told Refugee Reports, although some of the resettlement agencies would like to channel more detainee cases through that program.

An InterAction statement at the ORR

hearing recommended that the "current matching grant program...be expanded for this group. This would allow the voluntary agencies to provide intensive up-front services for a longer period of time."

Since 1979, the matching grant program has provided federal funds of up to \$1,000 per refugee to be matched on a dollar-for-dollar basis by voluntary agencies participating in the program.

"I am not sure the matching grant program will be appropriate," said Nguyen Nguyen, a consultant to the California state legislature's joint committee on refugee resettlement, international migration, and cooperative development. "The focus is on rapid employment, and many former prisoners may not be employable, given their age and traumatic experiences. Second, only four volags participate in the matching grant program. That's too exclusive."

Joan Pinchuk, refugee coordinator for Los Angeles county, has recommended that ORR make available its social services discretionary funds "for such purposes as mental health counseling and social adjustment services." Generally, ORR retains about 15 percent of social service funds for discretionary projects. In FY 90, ORR was allocated \$75 million for refugee social services.

ORR officials declined to comment on this proposal. One said to Refugee Reports, "There are lots of hands out for that money."

InterAction Wants More Re-ed Refugee Numbers In a November 9 letter to Ambassador Princeton Lyman, director of the Bureau for Refugee Affairs, InterAction's Committee on Migration and Refugees called for the admission of 10,000 to 12,000 former prisoners and dependents in FY 90. "The number should be expanded to the greatest possible extent," said the letter, which was signed by Robert DeVecchi, committee chairman and executive director of the International Rescue Committee. "We should not have ex-detainees and their families waiting an additional four to five years to be resettled."

The State Department has said that, by April, it expects to be moving about 1,000 reeducation camp people per month out of Vietnam, but officials suggest that expansion beyond that figure is likely to be

through immigrant, rather than refugee, channels. "We keep hoping that we will get 20,000 immigrants out of Vietnam per year," said Jim Williard of the Bureau for Refugee Programs. "That's 100,000 people in the next five years, and some portion will be re-ed cases."

"I'm not saying that [the detainee resettlement program] can't get bigger or that it won't get bigger," Williard told Refugee Reports. "But the program only started last month. We've got to give this a little time to see how it works."

INS DECREASES OVERCROWDING AT KROME DETENTION CENTER, BUT TENSIONS REMAIN

New parole guidelines, increased deportations, and transfers to other facilities have helped reduce the serious overcrowding at Krome North Service Processing Center, an Immigration and Naturalization Service (INS) detention center located near Miami, on the edge of the Florida Everglades.

Although tensions seem to have abated from the sky-high levels of mid-1989, a recent hunger strike by female detainees suggests that all is not yet well at Krome.

At the same time, questions--even lawsuits--have been raised about the manner in which the population was reduced, and the INS was found to have deported four Haitian women illegally, two of whom have been located in Haiti and returned to Krome to be placed into proper deportation proceedings.

Inmate Decline The total population of detainees at Krome has been greatly reduced since October, when there were 830 inmates. The total population was down to 509 in December, when Refugee Reports visited Krome, of whom 305 were Haitians. As of February 1, the census has been further reduced to 477.

Back in October, with a population nearly double the facility's maximum capacity, tensions were high among detainees, as well as INS personnel. "Guards who normally work 10 to 12 hour shifts were working 16 hours. Morale was low and staff turnover was high," said Esther Cruz, an attorney at Miami's Haitian Refugee Center (HRC).

Even detainees agree that after the overcrowding was eased, conditions at the

center improved. "Since some people were released, the officers are more relaxed," one detainee told Refugee Reports during the December visit.

Cheryl Little, another HRC attorney, agrees, but says that she's skeptical about how permanent the changes will be. "They know there's been a lot of criticism about Krome. Is this change real, or is it only something for the benefit of visitors?"

Transfers Since January 1989, the INS has been transferring Haitians to INS detention facilities and even county jails in Texas and Louisiana. Some of those who were transferred were accused by the INS of plotting a riot at the Krome facility. Detainees interviewed at Krome by Refugee Reports deny that any such thing was being planned. The effect, though, was to make those who were left behind more docile for fear of being branded as troublemakers and transferred or deported.

About 200 transferees were supposed to have been returned to Krome from locations in Texas and Louisiana by a class action suit brought by the Haitian Refugee Center last summer (see Refugee Reports, Vol. X, No. 8). Among other things, the suit alleged that the summary transfer violated their rights to legal representation.

Louisiana to Krome via Haiti But a wrong turn was taken for four of the detainees, who wound up having the INS put them on a flight to Port-au-Prince after having spent the previous days handcuffed and shackled on a bus ride from Louisiana to Miami.

Upon their return to Haiti, at least two of the would-have-been asylum seekers were arrested, shoved into a station wagon, and sent to the notorious Recherches Criminelles (Criminal Research, also known as the Anti-Gang Investigations Unit) detention center, which has frequently been cited by Amnesty International, Americas Watch and other human rights monitors for torturing and killing detainees.

There the two women, Medila Meus and Huguette Liberis, were kept in a small, windowless cell for three days with no beds, mattress, or sink. During that time, they were denied food and water. "We thought we might be killed," Meus told the Miami Herald after her return to Krome. "Nobody knows what may happen at Criminal

Research."

Cheryl Little told Refugee Reports that she had been tracking INS compliance with the June 30 class action settlement, calling INS facilities in Louisiana and Texas every day to learn who was being sent back to Krome. She said she knew something was wrong when the women she knew to have left Louisiana never arrived at their intended destination. The INS conceded the mistake and consented to fly them back to put them into legal deportation proceedings again. They remain in Krome, and were participants in the recently held hunger strike.

Little said that they would now be able to file for political asylum to fight the deportation order. Meus says that she left Haiti after her brother and uncle were killed by the military. She originally arrived by boat, after a 15-day voyage in which she said she nearly drowned. Liberis said that someone had shot at her home, and that a bullet hit her bed. She was threatened for having worked for a particular priest, she said.

The other two women erroneously deported to Haiti have not been located.

Deportations In all, 859 Haitians were deported, excluded, or required to depart in FY 89, and another 286 have been removed in FY 90, through January. This does not include interdictions (numbering 4,489 in FY 89, the largest fiscal year total since interdiction began in 1981) nor Haitians at airports transiting without visas (TWOVs), who numbered 4,272 in FY 89. A total of 82 Haitian cases were denied asylum (a case can represent more than one individual) in FY 89; three cases were approved. A total of 707 asylum cases were pending at the end of the fiscal year. Since 1983, the cumulative approval rate for Haitian asylum seekers has been 2.1 percent.

November Parole Policy Results in More Releases from Krome On November 1, Acting INS District Director Richard B. Smith issued an interim directive setting a temporary cap of 400 detainees for the Krome facility, citing budget constraints.

The directive said that aliens in exclusion proceedings would be considered for parole with priority going to noncriminal aliens based on length of detention and with family relatives in the United States

who had submitted affidavits of support on their behalf. But, the directive added that "aliens who have final orders of exclusion and/or deportation or whose case is on appeal, will not be paroled without the approval of the District Director."

According to Little, Smith told the Haitian Refugee Center on February 13 that 138 Haitians had been paroled since the new policy went into effect November 1.

However, Little points out that most of the longer-term detainees remain because their cases are on appeal. In a letter to Smith following the November 1 announcement, Little wrote, "It is fundamentally unfair to punish [people] and deny them parole simply because their cases are on appeal. Moreover, if paroled, these individuals would be in a far better position to secure adequate legal representation."

Richard Walker, then Acting Director of the Krome facility, told Refugee Reports that the new parole policy announced on November 1 "is just a slight variance [of the established parole process] in order to accommodate the situation at the time." Walker added, "as the population decreases, we will go back to the original parole process."

Allegations of Bias, Harassment Persist

The three-day hunger strike in February indicates that tensions have not entirely abated with reduced numbers. The hunger strikers alleged a number of acts of harassment and heavy-handedness by Krome guards. These included allegations that they were confined to their quarters, and denied access to telephones and use of the television.

The pattern is familiar to those who have followed events at Krome during the past year. Little provided Refugee Reports with more than a pound of sworn affidavits from Haitian detainees at Krome taken in 1989. Their complaints include: being confined to their dormitories for long periods of time; severe limitations on access to bathrooms and telephones; solitary confinement for long periods; and verbal and physical abuse by INS guards.

Former and current detainees voiced similar complaints to Refugee Reports at the time of the December visit. "We left Haiti because we were being abused by the military," a former detainee said. "But we

came here to Krome, and I have have seen officers beat the detainees with my own eyes."

Another Haitian said, "They treat the other nationalities better than us. If there is a misunderstanding between a Haitian and another nationality, then they [the guards] will punish the Haitian person. If another person is sick, they go to the clinic right away, but not the Haitians."

Refugee Reports asked one of the Haitians if he had encountered any problems at Krome. "For myself, I haven't had any problems," he told us. But then he recounted what happened the day he was due to be deported--but resisted: "I did not want to go back. When we got to the airport, I refused to go. They mistreated me a lot then. They handcuffed my hands behind my back and pushed my body from behind against the van, and the handcuffs were so hard on my legs [his legs were also shackled] that I couldn't lift my legs to get into the van--but he [the guard] pushed me hard into the van, and I fell so hard against the chair that I hurt my chest."

Walker denies that Haitians are discriminated against. "I don't think it's true, and if anyone is saying it, I think it's unfounded," he told Refugee Reports. "I think a lot of them [Haitians] are taking the official restrictions as a personal affront to them," Walker added.

Current Research

HAITIAN INTERDICTION VIOLATES INTERNATIONAL LAW, LAWYERS GROUP FINDS

At a recent congressional hearing on hunger (see related article, p. 5), the U.S. Coordinator for Refugee Affairs, Ambassador Jewel S. LaFontant, was asked about the Haitian interdiction operation. "We have heard heavy criticism on this," said Ambassador LaFontant. It was a matter of "common sense," she said, that the interdiction policy be reviewed. She said that an inter-agency task force had embarked on such a review, and announced that its recommendations should be out "in short order."

Of particular use to government policy makers will be a 108-page report issued on February 14 by the Lawyers Committee for Human Rights. Based on two site visits to

Haiti in 1989, the report makes a convincing case that "at least hundreds of refugees have been wrongfully returned to Haiti over the course of the program and denied protection in violation of refugee law."

Refugee Refoulement: The Forced Return of Haitians under the U.S.-Haitian Interdiction Agreement finds that of the 21,461 Haitians interdicted by the U.S. Coast Guard since the program began in 1981, only 6 persons have been allowed to enter the United States to pursue asylum claims. Of those six persons, two had lived in the United States before and three were relatively well-educated teachers, factors that may have helped them to articulate their claims.

Through the Lawyers Committee report, a picture emerges about at least some of the remaining 21,461--those denied, characterized as "economic migrants", and returned to Haiti.

Shipboard Interviews The Lawyers Committee was permitted to review on a confidential basis the Immigration and Naturalization Service (INS) questionnaires used to interview a boatload of 182 Haitians interdicted and returned to Port-au-Prince on March 31, 1989. Although INS examiners had told the Lawyers Committee team that they ask 17 questions in one-on-one interviews, including questions about imprisonment, mistreatment, political involvement, and restrictions on freedom, the questionnaires only reflect the first six questions: Name? Birthplace? Birthday? Current Address? Occupation? and "Why did you leave Haiti?"

A sampling of the answers written down by the INS interviewer in response to the question "Why did you leave Haiti?" include:

"People are dying"; "to save my life"; "people are being burned; cannot live"; "people are dying and being burned, people are being robbed"; mother's house burned, got beat up for no reason"; "lost two kids by gunfire, brother-in-law killed"; "people being set on fire, cannot return to Port-au-Prince, lost three brothers, spent three years in prison for nothing."

The report observes, "Although the [INS] guidelines provide for a private interview if there is any indication of a refugee claim, unequivocal statements by the

Haitians of fear of return to Haiti were apparently disregarded."

It goes on to say, "Despite these alarming answers, no further amplification or clarification is noted, and all were summarily returned to Haiti on April 2."

Interviews of Returnees The Lawyers Committee also interviewed Haitian returnees, and published the accounts of several with strong refugee claims who were returned nevertheless. Among them was Mr. Philogene, a passenger on the same ship from which the above INS interview notes were taken.

Philogene told the Lawyers Committee that he had been the vice president of the Communal Electoral Bureau, established to monitor the November 1987 elections (elections which were cancelled and in which people standing in line to cast their ballots were massacred). Seven days after the aborted elections, Philogene, his wife, and three children were arrested by the Haitian authorities. Shortly after his release, he learned that the authorities were planning to arrest him again, and went into hiding. In 1988, he became involved in a movement to defend peasant rights, organizing a demonstration to protest the arrest of a peasant leader. In March 1989, learning that the authorities wanted to arrest him again because of his activities with the peasants, he decided to leave the country.

The report recounts what Philogene said happened after his boat was interdicted by the Coast Guard:

Their boat was sunk and they were told that they would be brought to Miami. While on board the Coast Guard's cutter, the Haitians were asked as a group by the INS officer and his interpreter why they had left Haiti. Mr. Philogene told them that he had left because he did not feel safe in Haiti, and wanted to ask for asylum in the United States. The INS officer ignored him and went on to the next person. He was returned to Haiti along with the other passengers on the boat.

After being returned to Haiti, Philogene moved in with relatives in another town, telling the Lawyers Committee that he was afraid to return to his hometown. He has discontinued his work for peasant rights.

See No Evil, Hear No Evil Until 1986, occasional follow-up interviews were conducted by U.S. embassy personnel in Haiti to ascertain whether returnees were ill-treated. A U.S. embassy official in Port-au-Prince told the Lawyers Committee delegation that only a very small percentage of returnees was actually interviewed because of the difficulty in locating them.

Follow-up interviews were discontinued entirely after President Duvalier's overthrow in early 1986. The Embassy sent a cable to Washington saying, "any legitimate expectation that persecution might occur based on the general character of the Haitian government was removed when the National Governing Council succeeded President Jean-Claude Duvalier on February 7 and immediately made several key changes in the government of Haiti's human rights policy, most notably the dissolution of the Tonton Macoutes militia. This development and past findings make continuation of the program unjustifiable on principle." Follow-up interviews were never resumed.

Notwithstanding the U.S. embassy cable, human rights violations did resume shortly after Duvalier's overthrow, according to several human rights groups. Those violations have been documented in such reports as Haiti: Duvalierism since Duvalier (October 1986); Haiti: Terror and the 1987 Elections (November 1987); and The More Things Change ... Human Rights in Haiti (February 1989), by Americas Watch, the National Coalition for Haitian Refugees, and Caribbean Rights.

Recently, on February 20, the House of Representatives passed a resolution (H. Con. Res. 250) saying that the U.S. Congress:

condemns the military Government of Haiti for its arrests, beatings, and forced exile of opposition leaders, its abridgement of civil and political rights for Haitian citizens, and its blatant disregard for the Haitian Constitution and International law.

Refugee Refoulement is available from the Refugee Project of the Lawyers Committee for Human Rights, 330 Seventh Avenue, 10th floor, New York, NY 10001. (212) 629-6170.

Projects and Programs

SCORR LINKS STATE REFUGEE COORDINATORS

"The State Coordinators of Refugee Resettlement (SCORR) join together to establish and enhance individual professional development; to coordinate and thereby eliminate gaps in information dissemination; to promote improved service delivery...[and] to advise and inform and thereby to facilitate responsive planning within the federal government."

Thus reads the mission statement of SCORR, an organization formed by state refugee coordinators in 1988. Representatives of 41 states have joined SCORR. Because SCORR does not have any funds or staff, all of the organization's work is done by members on a volunteer basis. SCORR board members "meet" by telephone on regular conference calls.

According to Maryland's refugee coordinator, Frank Bien, "Developing a system to better share information among states is one of the organization's main objectives." Bien says that states can then use the information to take more informed positions on issues.

Citing an example of SCORR's information-sharing function, SCORR's president, California Refugee Program Manager Walter Barnes, said, "This past year we assessed the potential impact of various budget alternatives that the Administration and Congress were considering for 1990, then provided that information to states for their use."

One of the issues that first brought SCORR members together was their common concerns over a significant change in the pattern of refugee resettlement nationwide. "Basically, a few states were receiving more and more refugees," says Barnes, "and, conversely, many states were receiving fewer refugees than they had in the past. States receiving less refugees were afraid that they would not receive enough refugees to keep their programs viable, while over-impacted states were worried that their resources would be stretched too thin."

Laurie Bagan, Colorado's refugee coordinator, adds that "many of the state

coordinators feel that it's important that the refugee resettlement program remain a national program." "If most refugees are concentrated in only a few states," says Bagan, "their problems and concerns will not be the concerns of the nation as a whole." According to Barnes, SCORR has met with the Office of Refugee Resettlement (ORR), the U.S. State Department, and InterAction, to encourage them to work with SCORR on this issue.

SCORR has held two meetings coinciding with national ORR meeting. "ORR has been very supportive," says Barnes. "They have expressed interest in our activities and have invited us to speak at their annual meetings." "It's a very positive relationship," adds Bien.

Reader Exchange

° "Refugees: Facing Crisis in the 1990s" is the topic of the Allard K. Lowenstein International Human Rights Law Project 1990 Symposium, to be held at Yale Law School, New Haven, Connecticut, April 6-7, 1990.

Panel discussions will include "Pro-active Approaches to Refugee Crises," "Human Rights Protection and Refugee Relief," and "Forced Repatriation in Southeast Asia." Presentations will also be held on "Push-backs and Human Rights" and "Relief Agendas and the Refugee's Welfare: The Horn of Africa." Prince Sadruddin Aga Khan, coordinator of UN assistance programs relating to Afghanistan, will present the keynote address.

For information, contact Christopher P. Gilkerson, Lowenstein Project, Yale Law School, 401A Yale Station, New Haven, CT 06520. (203) 562-5085.

° The United Nations Border Relief Operation (UNBRO) is recruiting a full-time psychiatrist to develop comprehensive mental health services and training for Cambodian refugees on the Thai border. This is a historic opportunity to implement a first-of-its-kind UN mental health project. Other mental health practitioners such as psychiatrists and social workers are also needed.

Persons interested should send resumes to Mr. Patrick A.J. van de Velde, deputy director, United Nations Border Relief Oper-

ation, United Nations Building, Rajadamnern Avenue, Bangkok 10200, Thailand. Telephone: (66) 2-282-9161. Fax: (66) 2-280-3479. For information in the United States, contact Richard F. Mollica, M.D., chairman, Committee on Refugees and Migrants, World Federation for Mental Health, Indochinese Psychiatry Clinic, St. Elizabeth's Hospital, 77 Warren Street, Brighton, MA 02135. (617) 782-6711.

A recent report for UNBRO prepared by the World Federation for Mental Health and the Harvard School of Public Health Task Force on the Mental Health Crisis in Site Two outlined the urgent need for establishing a mental health program in the camp. Copies of the report are available free of charge, by contacting Dr. Mollica.

Resources

HANDBOOK HELPS MAAs LEARN FUNDRAISING TECHNIQUES

"A great number of manuals have been written about fund-raising and resource development," says Le Xuan Khoa, president of the Indochina Refugee Action Center. "But none of these is specifically prepared for refugee organizations, better known as Mutual Assistance Associations (MAAs), many of which have been dependent on one single source of funding: the federal Office of Refugee Resettlement (ORR)."

According to Khoa, because the future of that ORR funding is uncertain, MAAs need to find new resources to ensure that their work continues.

The Resource Development Handbook, produced by IRAC with funding from ORR, gives MAAs a comprehensive guide for organizing their fundraising approach.

The two-hundred page manual outlines the resource development process: strategic planning, public relations, fundraising workplan, and proposal writing. It describes how to tap resources available from the private and public sectors, as well as individuals. Also included are practical worksheets, and an annotated bibliography.

ORR distributed the first printing of the handbook widely, without cost, to MAA directors around the United States. A second printing, done by IRAC, is now

available for \$22.50. To order, contact the Indochina Resource Action Center, 1628 16th St. NW, 3rd floor, Washington, DC 20009. (202) 667-4690. Special bulk rates are available.

HEARTS OF SORROW: VIETNAMESE REFUGEES TELL THEIR OWN STORIES

James Freeman, a professor of anthropology at San Jose State University, has spent the last six years compiling the life stories of fourteen refugees in Hearts of Sorrow: Vietnamese-American Lives. "This book is about the end of an era," he says, "a world lost, a way of life that exists now only in memory."

Freeman decided to compile these first-person narratives because of the stereotypes being applied to Indochinese refugees in Santa Clara, California, where he teaches and lives.

"As I came to know Vietnamese refugees in the Santa Clara Valley, I heard increasing complaints that most reporting about them remained erroneous, misleading, and demeaning," he says. Vietnamese-Americans in the Valley were dismayed to be called "welfare sponges, or persons who take jobs away from others." They resented media emphasis on criminal gangs, as well as insinuations that they had used unfair means to become successful in business or in buying homes.

"Because of these complaints," says Freeman, "I designed this book, in which Vietnamese-American people could express themselves in their own terms about subjects they considered important and wanted other Americans to hear."

The fourteen refugees who tell their stories include a young survivor of a massacre, a school teacher, a Buddhist nun, an elderly civil servant, an auto mechanic, and two former military officers.

Rather than telling one story at a time, Freeman has divided the narratives into thematic segments such as "Vietnam: Childhood, Youth, and Character"; "Flight to Freedom"; and "America: Heartache Beneath Success."

The 446-page book is available at bookstores, or from Stanford University Press, Stanford, California, for \$29.50.

Below are excerpts from Hearts of Sorrow.

"Three times a week for three months, we took the boat out to sea and did some fishing.... The Patrols became accustomed to our boat, and when we did leave for good, they did not question us.

On the night of June 12, 1979, I was sleeping on the boat, as I often did, when my older brother came to tell me to go right home.... When I arrived, my mother, brother, and sister were sitting in the backyard, illuminated by the light of a large full moon. [My mother] told me I would be leaving Vietnam the next day.... I was taken aback.... Now that the day had come, I could not believe it.

I now understand what that day was to mean to me, though at the time it did not cross my mind. Now that I have left, I fully realize that my family, home, and country probably are behind me forever. This is a source of sadness that is with me always.

--young survivor of a massacre

"My family living in America has everything complete and happy, and a new chance.

But the children are different here in America.... Children growing up in Vietnam are afraid of their parents. Even when they marry, they still have respect and fear of their parents. In America, when they become 18, they lose their fear. They depend on the law of the land and go out of the house....

There's a second important point. Vietnamese life is not like American life. The Vietnamese have villages, neighbors, and sentiment. The father-child and mother-child relationships last forever, until the parents are very old. Children have the duty to take care of their parents.... This is not like in America, where adult children leave the home and old parents go to the nursing home. I'd like Americans to know that. I have met and talked with a lot of old American people. They have said to me, "When we become sick, nobody knows. When the postman comes...only then does somebody know we are sick."

LEGALIZATION APPLICANTS (I-687)
As of January 9, 1990

<u>COUNTRY OF CITIZENSHIP*</u>			<u>STATE OF RESIDENCE*</u>		
<u>All Countries</u>	1,768,300	100.0%	<u>Total U.S.</u>	1,768,300	100.0%
Mexico	1,235,200	69.9%	California	963,400	54.5%
El Salvador	143,700	8.1%	Texas	313,200	17.7%
Guatemala	52,800	3.0%	Illinois	121,800	6.9%
Colombia	26,500	1.5%	New York	119,800	6.8%
Philippines	19,200	1.1%	Florida	49,400	2.8%
Dominican Rep.	18,400	1.0%	Arizona	29,000	1.6%
Nicaragua	16,100	.9%	New Jersey	28,700	1.6%
Poland	16,100	.9%	New Mexico	16,600	.9%
Haiti	16,000	.9%	Nevada	10,400	.6%
Iran	14,700	.8%	Colorado	10,100	.6%
Other	209,600	11.9%	Other	105,900	6.0%

*Estimated and rounded to the nearest hundred.

Source: U.S. Immigration and Naturalization Service

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March 23, 1990

THE REFUGEE ACT TEN YEARS LATER DEMANDS FOR ASYLUM REFORM QUICKEN PACE

March 17 marked the tenth anniversary of the Refugee Act of 1980, the law that, among other things, sought to create a uniform procedure to enable aliens in the United States or its borders to apply for asylum. Coinciding with the anniversary, several nongovernmental agencies and scholars have issued reports analyzing what they see as failures in implementation of the Act and offering recommendations for reform of the system for judging asylum claims.

This comes at a time when the regulatory framework for asylum adjudication in the United States is very much up in the air, with proposals for new asylum regulations being considered within the Justice Department and its agencies.

After several months on the job, Gene McNary, the new Commissioner of the Immigration and Naturalization Service (INS), now appears ready to make his mark on the agency, and his agenda appears to include asylum reform. In December, he told a press conference that new asylum regulations "may be forthcoming soon," and expressed his view that there was a need for better quality adjudication and streamlining of deportation procedures.

On February 7, McNary went to the largest detention center in Texas--the Port Isabel Service Processing Center, commonly known as "El Corralon"--to announce a revived "get tough" policy for large-scale detention of Central American asylum seekers. After touring six newly erected tents at the Port Isabel facility, McNary told a press conference, "The message we are now sending across Central America and around the world is, 'Just don't drop in our doorstep without a just cause and a provable case of fear of persecution.'" The policy of releasing detainees, he said, "has stopped as of today."

A similar detention policy announced last February bogged down with delays in adjudication and prolonged detention and budget-breaking expense to the government (see *Refugee Reports*, Vol. X, Nos. 2 and 5). Only two weeks before McNary's announcement, the INS had been releasing large numbers of Central American detainees from south Texas, which McNary had explained as

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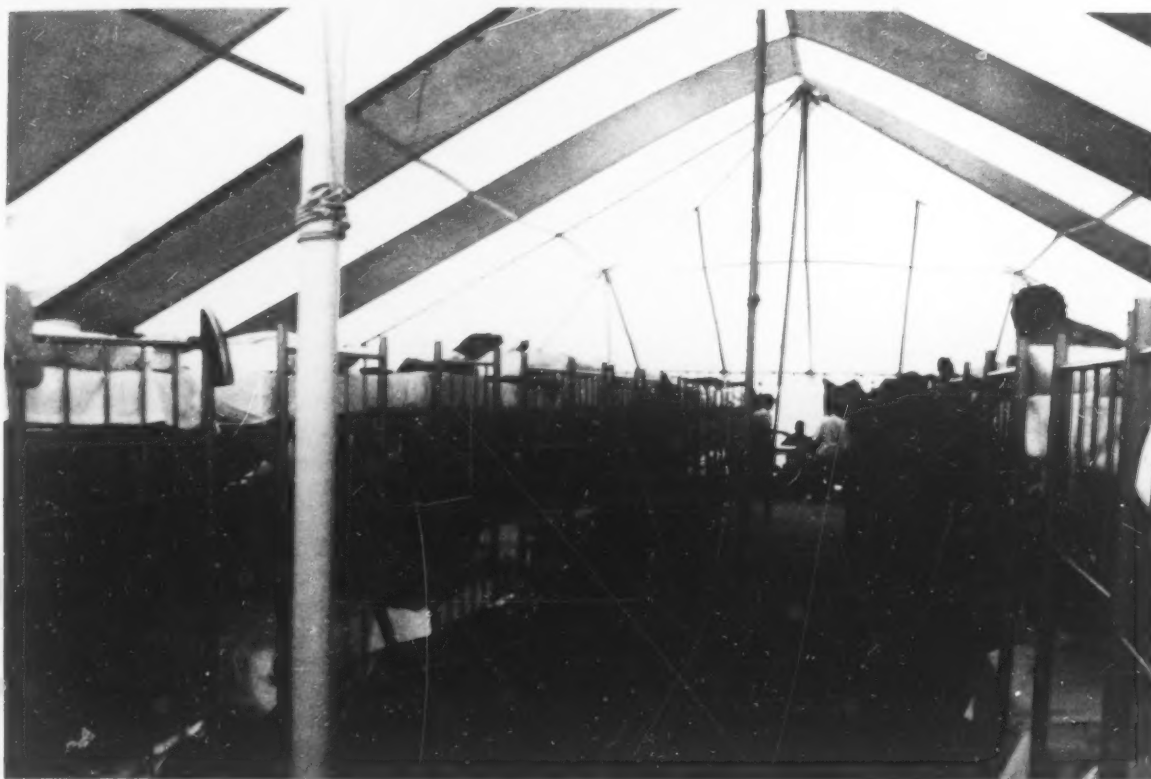
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Central American detainees in tents at Port Isabel detention facility in Texas last year. Tents have recently been erected again in anticipation of increased detention. USCR/Hiram A. Ruiz

necessary to "live within our budget" (see Refugee Reports, Vol. XI, No. 1). McNary said that about \$11 million had been set aside from the INS budget to finance the new detention effort, and that more emergency funds would be available, the February 8 New York Times reported.

McNary said that the INS would once again strive for single-day adjudications. He said that he had "a good blueprint" for speeding up asylum adjudications and deportations.

Private Studies Offer Alternative

"Blueprints" Whether the present "blueprint" simply revives the logistics of last year's detention and accelerated adjudication plan, or whether it addresses more far-ranging changes remains to be seen. But what follows is a look at recent reports by two prominent human rights groups and studies by two leading immigration law academics that address more far-reaching changes in the asylum adjudication system.

The two organizations, Amnesty International U.S.A. and the Lawyers Committee for Human Rights, released reports directly tied to the tenth anniversary of the Refugee Act that analyze its implementation and make wide-ranging recommendations for reform.

Both organizations make a case that foreign policy considerations and political bias have undercut the purposes of the Refugee Act. The Amnesty report places primary responsibility for bias on two federal agencies, saying, "Guatemalans, Haitians and Salvadorans who are refused asylum under the biased practices of the Bureau of Human Rights and Humanitarian Affairs (BHRHA) of the Department of State and the Immigration and Naturalization Service (INS) are frequently repatriated to countries where they risk arrest as prisoners of conscience, torture, 'disappearance' or execution."

The Lawyers Committee charges, "The humanitarian purpose of the Act has been systematically subverted by political considerations." Both organizations cited

statistics to bolster their case, showing discrepancies in asylum approval rates based on national origin and ideology. Both organizations also made use of case studies in their reports to show asylum seekers with strong claims who have not been protected by the system.

Both Amnesty and the Lawyers Committee make a broad range of recommendations to strengthen due process for asylum seekers and to improve the independence and training of asylum adjudicators. Both reports also address related matters beyond the scope of asylum adjudication per se, such as conditions of detention and interdiction of Haitian boat people.

Duke Austin, a spokesman for the INS, criticized the Lawyers Committee report, saying, "They want to call aliens in detention 'refugees' before a determination of their status is made." He told Refugee Reports, "We don't incarcerate refugees." At press time, the Amnesty report had not yet been publicly released, and the INS has therefore not commented on it.

Academic Voices Are Also Heard Among the scholars weighing in recently on asylum reform are Deborah Anker, who led a Harvard University research team studying the operation of one immigration court, and David Martin, a professor of law at the University of Virginia, whose report led to recommendations last year by the Administrative Conference of the United States. The remainder of this article will focus on these two studies because they focus more specifically on the issues that are likely to be the subject of new asylum regulations.

The focal point of the debate, at the present time, is on the role of the federal agencies that make or contribute to asylum determination--in particular, whether primary responsibility for asylum adjudication should rest with the INS or with the Executive Office of Immigration Review (EOIR), and whether or not aliens should continue to have the right to apply for asylum before both agencies, first affirmatively with the INS, and, if denied, second, with an immigration judge of the EOIR in the course of a deportation or exclusion hearing.

Earlier "Blueprints" Not Implemented

In August 1987, the INS proposed asylum regulations that called for dropping the

role of immigration judges in favor of a specially trained corps of asylum adjudicators within the INS [52 Fed. Reg. 32552]. This caused a storm of protest, and the proposed rule was withdrawn (see Refugee Reports, Vol. VIII, no. 9). Then, in April 1988, the regulations were revised and again proposed [53 Fed. Reg. 11300], retaining the corps of asylum adjudicators for initial hearings, but reintroducing the role of immigration judges to consider asylum claims in deportation or exclusion proceedings (see Refugee Reports, Vol. IX, No. 4).

With the April 1988 proposed regulations left hanging, much attention has focused on the role of immigration judges and their agency, the EOIR, in the asylum process. The EOIR, an agency within the Justice Department but separate from the INS, considers asylum applications of aliens facing deportation or exclusion. The EOIR procedure involves a formal, administrative hearing in an immigration court. Decisions of immigration judges may be appealed by either the alien or the government to the Board of Immigration Appeals (BIA), the highest appellate unit within the EOIR. From there, further appeals may be made to the federal circuit court of appeals.

Harvard Study Looks at Role of Immigration Judges

Anker's study is based on observations of 193 hearings at the immigration court in Boston during a two-year period. Of the 149 asylum claims represented in these hearings, seven applicants were granted asylum. In each of the seven cases granted, the applicant was relatively well-educated, represented by experienced counsel, and able to produce corroborative evidence. The study noted that "social class, cultural factors and perceptions of the applicants' ideological beliefs seem to play a significant role in determining which cases were granted."

On the other hand, 75 percent of the applicants were denied who presented evidence of severe past persecution and highly visible political activism. "There does not appear to be any reason based on current legal standards for the granting of other claims over these," said the report.

The study, "Determining Asylum Claims in the United States," charges that immigration judges generally expect asylum applicants to produce corroborative printed proof or tes-

COMPARISON OF ASYLUM APPROVAL RATES IN CASES
BEFORE EOIR IMMIGRATION JUDGES AND INS DISTRICT DIRECTORS
BY SELECTED NATIONALITIES, FY 1989

COUNTRY	DISTRICT DIRECTORS (INS)		APPROVAL RATE		IMMIGRATION JUDGES (EOIR)	
	CASES	CASES	FOR CASES DECIDED		CASES	CASES
	<u>GRANTED</u>	<u>DENIED</u>	<u>INS</u>	<u>EOIR</u>	<u>GRANTED</u>	<u>DENIED</u>
TOTAL	6,942	31,547	18.0%	21.6%	1,784	6,483
Romania	575	57	90.9%	65.2%	15	8
Soviet Union	109	11	81.6%	23.0%	3	10
China	98	23	80.9%	19.2%	10	42
Ethiopia	456	236	65.8%	58.3%	35	25
Somalia	119	63	65.3%	71.4%	15	6
Vietnam	7	4	63.6%	50.0%	7	7
Syria	21	15	58.3%	6.2%	1	15
Iran	602	446	57.4%	48.1%	103	111
Czechoslovakia	47	36	56.6%	66.7%	8	4
Pakistan	14	13	51.8%	40.0%	8	12
South Africa	14	19	42.4%	33.3%	3	6
Lebanon	58	124	31.8%	28.3%	21	53
Afghanistan	19	45	29.6%	64.0%	169	95
Poland	285	688	29.2%	17.6%	39	183
Cuba	76	186	29.0%	11.0%	81	653
Hungary	31	78	28.4%	25.0%	3	9
Uganda	7	18	28.0%	66.7%	2	1
Nicaragua	3,617	10,486	25.6%	36.5%	580	1,008
Philippines	5	63	7.3%	3.0%	1	32
Yugoslavia	4	77	4.9%	9.8%	7	64
Sri Lanka	1	22	4.3%	43.2%	35	46
Haiti	3	82	3.5%	3.3%	15	436
El Salvador	337	13,861	2.3%	13.0%	396	2,655
Guatemala	67	3,325	1.9%	19.3%	102	425
Honduras	14	1,009	1.3%	12.2%	22	158

Sources: Immigration and Naturalization Service (INS)/U.S. Department of Justice and Executive Office of Immigration Review (EOIR)/U.S. Department of Justice.

Note: We compare the approval rates in proceedings before immigration judges with the approval rates of those applying for asylum before INS district directors. Those who apply with an INS district director have the option of raising their asylum claims again in deportation or exclusion proceedings before an immigration judge.

timony that they have directly experienced or visually observed persecutory events. Immigration judges, said the report, also regularly discount evidence related to subjective fear and persecution of similarly situated individuals, including family members.

The report notes that its findings contrast with the burden of proof in asylum cases affirmed by the Supreme Court in its landmark INS v. Cardoza Fonseca decision. There, the Court, recognizing the difficulty of obtaining direct corroborative proof, emphasized the relevance of testimonial evidence and subjective beliefs presented by the applicant. (See Refugee Reports, Vol. VIII, No. 3.)

Immigration Judges: Judge and Prosecutor Rolled into One? The Harvard study focuses exclusively on asylum hearings before immigration judges. Excluded from the study were applications for asylum filed with INS district directors, who, using informal, non-recorded interviews by INS examiners, consider cases of applicants who come forward voluntarily--"affirmatively."

The study finds that immigration judges, in practice, "actively participate in the hearing, sometimes helping the applicant in preserving limited procedural rights, but frequently 'testing credibility' in a manner which resembles the cross-examination techniques of the government's attorney."

The study charges that immigration judges frequently appear reluctant to grant asylum claims over the objections of government attorneys. "The presumptive skepticism with which immigration judges view claims undermines the appearance of impartiality and applicants may experience the immigration judges role as that of a second prosecutor," said the report.

The study also found "limited and poor quality foreign language interpretation for the majority of applicants, who are non-English speaking." The credibility determination, an explicit factor in 42 percent of the decisions studied, was substantially affected by standard interpreter errors, the report charged. The report further found that large portions of the hearings are not interpreted for the applicants. (The failure to translate hearings in their entirety is the subject of a current class-action suit, El Rescate Legal Services, et al v,

Executive Office of Immigration Review, in which the EOIR has been required to provide complete interpretation in southern California. On February 5, the government filed an appeal against the injunction. See Refugee Reports, Vol. X, No. 11).

EOIR Official Calls Study Unrepresentative Gerald Hurwitz, counsel to the director of EOIR, told Refugee Reports, "We disagree with the conclusions of the report across the board." He said that the findings of a small sample "were extrapolated as a national thing," but that approval rates in the study were "out of whack" with the national picture. He said that "the low grant figure was not even close to the norm." Statistics provided by the EOIR represent a national approval rate of 21.6 percent (see accompanying chart); the approval rate of the Harvard sample stood at 4.7 percent.

Hurwitz said that he had not read the report in its entirety, but only the executive summary, "so I don't know how she got her sample."

Anker told Refugee Reports that the disparity between the approval rate in the immigration court under study and the national average "shows how the lack of clear decisions [from the BIA] produces inconsistencies and makes clear the need for standardization of procedures and rules."

Hurwitz criticized the report not only for an unrepresentative sample of cases, but for its findings on the quality of hearings and the role of immigration judges in the procedure. He particularly criticized the study for its criticism of immigration judges for making credibility determinations. "That is part of their job," he said, "to determine credibility, to ask questions, to clarify the record." He also said that it was not his experience "at all" that immigration judges give undue weight to State Department opinions. "Many give very little weight to State Department opinions," he said. "Our judges review all the evidence and assign weight based on the facts" as presented in each case.

Delays in Asylum Process Due to Inefficiency of Court, Study Finds An aspect of the present asylum system on which everyone agrees is that the process is often prolonged, with final decisions dragging out for months or even years. But there, agree-

GAO STUDY FINDS MANY ALIENS FAIL TO SHOW AT DEPORTATION HEARINGS, CONGRESS REACTS

More than one-quarter of apprehended aliens fail to appear at deportation hearings in New York and Los Angeles, finds a recent U.S. General Accounting Office (GAO) study, which also notes that few deportations actually occur relative to the number of undocumented aliens apprehended every year.

The study, Deporting and Excluding Aliens from the United States, has prompted Rep. Bruce A. Morrison (D-Conn.), chairman of the House immigration and refugees subcommittee, to add provisions into his legal immigration bill (H.R. 4300, Title 4, sections 405 and 406) that would order deportations in absentia and bar relief from deportation for five years for those aliens who do not appear at their hearings, if they had been properly notified of the time and place of the hearings and of the consequences for not appearing.

No Shows The GAO report estimates that 27 percent of apprehended aliens fail to appear at deportation hearings, based on the New York and Los Angeles samples. Virtually all had been charged with entering the country illegally, and most had attended at least one hearing before not appearing at a following hearing.

It might not be accurate to extrapolate a national picture from the GAO's New York and Los Angeles samples, however. In the first five months of 1989, the failure to appear rate was 12 percent in Miami, 15 percent in El Paso, and 23 percent in San Diego during the same period that no-shows in New York and Los Angeles stood at 63 and 46 percent respectively, according to the office of the Chief Immigration Judge.

Regardless of the percentages that do not show for their hearings, however, certain procedural problems make appearance for hearings less likely.

"Their non-appearance can be attributed, in part, to aliens not being notified by the INS [Immigration and Naturalization Service] of the time and place of their hearings," said the report. "But their non-appearance may also be due partly to

the general lack of repercussions (other than bond forfeiture) for failing to appear."

Aliens apprehended by the INS are generally released on bond or on their own recognizance pending their hearings. In part, this is because detention is expensive and space limited. INS has 2,239 spaces available for detainees at seven INS facilities. In FY 88, 643,000 detention days were provided through outside contracts, at a cost of \$25 million.

But releasing aliens gives rise to other problems, principally failure to appear. "Aliens who post bond and fail to appear can forfeit the money or other collateral used to secure their bonds," says the report. "However, such costs could be viewed as a cost of remaining in the United States."

The GAO said, "Aliens have nothing to lose by failing to appear for hearings and, in effect, ignoring the deportation process." Other than the forfeiture of bond--if bond was posted--they suffer no other penalties. And, the report points out, the longer they remain in the United States (seven years is the magic number), the better their chances of finding other avenues of relief from deportation, based on good conduct and roots established while here.

Following closely the recommendations of the GAO, H.R. 4300 would disallow time spent while proceedings are pending to be counted for relief from deportation in this way. It would also impose rather severe penalties for failure to appear after having been properly notified, including five years of noneligibility for the INA's existing provisions for relief from deportation, such as applying for asylum. Motions to reopen would be limited to explaining the reasons for the failure to appear. The mandatory ground for withholding deportation based on threats to life and freedom [INA 243(h)] is not affected by the bill, but it is unclear at what point an alien who failed to appear would have the opportunity to avail himself of that right.

For information on ordering the report, see Resources.

ment ends and finger pointing begins. Government officials have often claimed that delays are caused by continuances initiated by attorneys; advocacy groups say government inefficiency is at fault.

The longest cause of delay, according to the Harvard study, was "the EOIR's difficulty in producing transcripts for appeals." The study found that unavailability of these transcripts caused average delays of 22 months after the immigration judge had rendered a decision.

The Harvard study also found that the lawyer's or the applicant's failure to appear was the reason for a continuance in less than one percent of the cases. In another seven percent of the cases, continuances resulted from the lawyer's need for a postponement because of illness, scheduling conflicts, or being unprepared. In the majority of cases under study that were continued for further hearing, the immigration court had not allocated sufficient time for the completion of testimony, the study found.

Anker Recommends Enhanced Procedural Consistency and Formalized Safeguards

"The central recommendation of this study," wrote Anker, "is the enhancement of formal safeguards in the asylum determination process." Such safeguards include rules for the admission of evidence; the provision of legal counsel to those who cannot afford it; complete and accurate language interpretation; and increased adjudicator training and congressional oversight.

Anker also calls for preserving judicial review, noting that relatively few asylum claims are actually appealed to the federal courts (117 cases in 1984).

Administrative Conference Calls for

Speedier Process Another major contribution to the debate about the future shape of the asylum process comes from University of Virginia law professor David A. Martin. His report, submitted last year to the Administrative Conference of the United States (ACUS), a federal agency charged with improving the procedures of federal agencies, was the basis for its recommendations for asylum reform last June.

Martin notes with a degree of alarm the increase in the number of asylum seekers in the United States and other Western indus-

trialized democracies, and suggests that "asylum can...become a misused loophole in the laws that control immigration." Because asylum applicants enjoy important benefits while their claims are pending, such as work authorization and freedom of movement, says Martin, "delays greatly enhance the attraction for marginal claimants."

He suggests that detention or limitations on work authorization could be used as deterrents, but that "they are indiscriminate in their effects, and may have the most severe impact on genuine refugees who in the past have experienced torture or witnessed the killing of family or friends." Instead, Martin maintains that "the only discriminate and humane deterrent derives from expeditious conclusion of asylum procedures, including all stages of review, followed by swift return of undeserving applicants to their home countries."

"Two Bites at the Apple" Martin notes that the process for INS examiners' adjudication of affirmative asylum claims often takes eight months or more. In addition, he says that appeals through the EOIR and the judiciary "can easily consume a year or more, largely because of delays in receiving transcripts of immigration court proceedings."

Martin's report emphasizes the problem of delay as the key issue that most needs to be addressed to improve the asylum adjudication procedure. One of the principal causes of delay cited by the ACUS is to accommodate the scheduling needs of pro bono lawyers. The process of administrative and judicial review is noted as the other significant factor in delay. Martin identifies the fundamental problem as allowing "two bites at the apple"--the system allows two separate rounds where a person can first file an asylum claim before the INS and then, if denied, a separate claim before the EOIR.

ACUS Recommends Eliminating Role of Immigration Judges and District Directors

Based on Martin's report, the ACUS recommended the creation of "one unified initial asylum proceeding" that would eliminate both the roles of INS district directors and immigration judges in the process. In their place, would be established a corps of specially trained asylum adjudicators within the EOIR, who would be devoted exclusively

to adjudicating asylum claims. They would enjoy the same salary, status, and guarantees of adjudicative independence as the present immigration judges.

The corps of adjudicators would be served by an independent documentation center, which would obviate the need for routine referral of applications to the State Department. This, said the Administrative Conference, would "minimize any perception that asylum decisions are influenced by political considerations." At the plenary session of the ACUS, however, objections were raised to removing the State Department's advisory role. As adopted, the proposal would allow the State Department to request either "on an across-the-board basis or country-specific basis" notice of individual asylum applications. This, said the proposal, would allow the State Department to offer opinions in sensitive cases, such as those involving foreign government officials.

The hearings would follow a modified nonadversarial model. "Cross-examination and confrontation," Martin wrote, "often regarded as key components of due process, play little role in guaranteeing fairness to the applicant in this setting, primarily because the applicant is the only witness." In further explaining this point to Refugee Reports, Martin said, "I worry that the current system fails to identify people in trauma." He said that the absence of a government trial attorney trying to "break the story"--usually by attacking the credibility of the applicant--was unnecessary, and that adjudicators could be trained to "draw out the full elements of the story" in a less threatening manner.

Although the ACUS recommendations would allow applicants to be represented by counsel and to present witnesses, they would not allow proceedings to be "unduly delayed" to accommodate counsel, "because expeditious initial decisions are essential." The proposal would eliminate the INS's trial attorney from the proceedings.

Appeals would be directed to a new asylum board within the EOIR devoted exclusively to asylum, thus eliminating the role of the Board of Immigration Appeals in the asylum process. The proposal would also eliminate entirely the Asylum Policy and Review Unit (APRU) in the Department of Justice, which, since April 1987, has reviewed dis-

trict office decisions.

Critics Charge ACUS with Downgrading Due Process The ACUS recommendations were criticized by a coalition of immigrant and refugee advocacy groups, spearheaded by the San Francisco Lawyers' Committee for Urban Affairs. In a sign-on letter to Martin, the groups said that the ACUS proposal did not clearly enough mandate the rights to counsel, transcription, the rights to present evidence and to cross-examine adverse witnesses, and the right to a decision based on the record. They said that the ACUS language supporting such rights was "too vague" and "insufficient to protect due process." These matters, they said, could not be entrusted to the discretion of any federal agency.

Taking INS Out of the Process Martin told Refugee Reports that his critics have wrongly portrayed the ACUS recommendations as a revival of the INS's 1987 proposals. "There are major differences," he said. "This is emphatically not the 1987 proposal."

Although both proposals call for a specially trained corps of asylum adjudicators and a single round of adjudication, the ACUS "takes the INS out" of the process. The adjudicators, located within the EOIR, would be independent of the INS, he insisted.

But this protestation leads to criticism from Martin's other flank. INS spokesman Duke Austin told Refugee Reports that removing INS from the asylum process "would be diametrically opposed" to the philosophy of the INS, which, he said, has had the exclusive role of admitting all aliens to the United States. "I can't see us buying into that," he said.

Would Asylum Adjudication Be Any Fairer within the EOIR? Martin is caught in the middle. His critics among the refugee advocacy network do not seem altogether comfortable with asylum adjudication left in the hands of the EOIR either.

In a letter endorsed by the American Immigration Lawyers Association, Anker has suggested that the EOIR has been "tainted" by the perception that it is overly deferential to foreign policy and immigration enforcement considerations, and that "a totally separate agency" might be necessary to adjudicate asylum claims.

Asylum Regulations: Round Three?

Despite its critics, the ACUS proposal seems to have generated interest at the Department of Justice. At the plenary session where the ACUS proposal was adopted, it was announced that the Attorney General's office had "invited" the ACUS to make its recommendations. Interpreter Releases reported on June 26, 1989 that the Attorney General's office, at that time, had not had time to form an opinion on the pending regulations, due to the transition to the Bush Administration.

An aide to Senator Edward M. Kennedy (D-Mass.), chairman of the refugee subcommittee, told Refugee Reports, "We were assured by the Justice Department that [the promulgation of asylum regulations] is a high priority. They are moving ahead and soliciting ideas for reform. They say that it is a consultative process and that they are not locked into a particular formula."

The Attorney General's office would only tell Refugee Reports that "something is being reviewed" and that it "is actively being looked at." Justice Department sources declined to comment on a timetable for publication of new proposed regulations, but indicated that the relevant Justice Department agencies have not yet "signed off" on new draft regulations, nor has anything yet been submitted to the Office of Management and Budget.

However, with the Bush Administration now firmly in place, a new commissioner heading the INS, and the challenge of judging the claims of increasing numbers of asylum seekers as pressing as ever, the time may well be at hand for the formation of an Administration opinion on the system for judging asylum claims in the decade ahead.

[Editor's Note: Information for ordering copies of the reports mentioned in this article can be found under Resources.]

Recent Developments

SENATE HEARING LOOKS AT CPA AND REFUGEE PROTECTION IN SOUTHEAST ASIA

The lack of consensus on repatriation of screened-out Vietnamese boat people has hampered full implementation of an inter-

national plan of action to resolve the long-running Vietnamese refugee problem and undermined commitments of protection and asylum in Southeast Asia, according to private advocacy groups testifying before the Senate Appropriations Subcommittee on Foreign Operations on March 1. The hearing was chaired, for the most part, by Sen. Mark Hatfield (R-Ore.), ranking minority member of the Appropriations Committee.

The Comprehensive Plan of Action (CPA) endorsed last June by 76 nations meeting in Geneva "is on the verge of collapse as a result of the failure of governments to reach consensus" on the involuntary return of screened-out Vietnamese, said Le Xuan Khoa, president of the Indochina Resource Action Center. "The result is that the state of first asylum and protection for refugees hangs in a precarious balance."

When the members of the CPA steering committee met in Geneva in January, the United States proposed that a one-year moratorium, through January 1, 1990, be imposed on any involuntary repatriation of Vietnamese who are determined, following an interview with an asylum country official, not to qualify for refugee status.

The U.S. proposal was rejected by the other CPA participants who, with the exception of Vietnam, unanimously endorsed a moratorium ending July 1. Vietnam had split the difference and proposed a moratorium through October 1. The U.S. delegation, reportedly after consultation with the White House, rejected any shorter intervals, thus blocking consensus.

The text of the CPA specifies that "persons determined not to be refugees should return to their country of origin in accordance with international practices," but that "in the first instance, every effort will be made to encourage the voluntary return of such persons."

The CPA also spells out commitments to a range of other initiatives, including discouragement, through humane measures, of clandestine departures from Vietnam; expansion of regular departure programs; temporary refuge for all asylum seekers; establishment of a consistent, regionwide refugee screening process; resettlement of "long-stayers" and newly determined refugees; and maintenance of safe arrival and access to screening for all Laotian asylum seekers in Thailand.

**MONTHLY ARRIVAL OF VIETNAMESE BOAT PEOPLE
IN COUNTRIES OF FIRST ASYLUM: 1989**

Month	Number of Arrivals							Total
	Hong Kong	Malaysia	Indonesia	Thailand	Philippines	Singapore	Macau	
Jan	114	1,665	184	169	4	--	--	2,136
Feb	356	1,759	--	197	188	80	--	2,580
Mar	842	2,802	279	191	311	70	--	4,495
Apr	2,918	3,400	654	418	1,286	172	--	8,848
May	9,192	1,703	678	454	1,248	163	--	13,438
Jun	9,679	1,158	1,419	581	1,885	76	--	14,798
Jul	4,273	487	548	358	350	280	--	6,296
Aug	4,441	254	298	45	587	366	--	5,991
Sep	1,076	870	683	585	441	123	--	3,778
Oct	709	1,332	1,077	295	255	62	--	3,730
Nov	322	497	635	293	--	--	--	1,747
Dec	194	791	240	787	123	--	--	2,135
TOTAL 1989	34,116	16,718	6,695	4,373	6,678	1,392	--	69,972
TOTAL								
1979-1989	156,733	183,302	104,775	94,119	45,896	29,879	6,144	620,848

Source: Hong Kong Government

Hong Kong Screening is Still "Seriously Flawed" By implementing a screening program that is still "seriously flawed" and carrying out the "precipitous" forcible repatriation of 51 Vietnamese asylum seekers last December, Hong Kong and the United Kingdom "endanger the whole CPA," Khoa said.

In the Hong Kong screening process, Khoa testified, "government interviewers are inadequately trained; applicants are not given the opportunity to adequately present their cases nor are they given the benefit of the doubt, translation services in many cases are inadequate; appeal review appears arbitrary; and reasons are not given for upholding rejections on appeal."

"Until a fair screening process and an effective mechanism for safe return are in place," said Khoa, "we will continue to oppose any moves to repatriate the 'screened-out'." He urged that more time and resources be devoted to promoting voluntary repatriation, adding that "it is essential for overseas Vietnamese to be involved in the monitoring program to assess its effectiveness in protecting the rights of the returnees."

Testifying before the Senate subcommittee, Ambassador Jewel Lafontant, the U.S. coordinator for refugee affairs, reiterated the view that "the President's policy is

opposed to involuntary repatriation.... Voluntary repatriation has not been given a sufficient opportunity to demonstrate whether it will work."

First Asylum Camp Conditions Are "Deplorable" "The disintegration of the CPA," said Nina Hale, acting executive director of Refugees International (RI), "is exacerbating the deplorable conditions under which asylum seekers are forced to live in the camps." She accused Hong Kong of "deliberately refusing to improve living conditions. To put it bluntly, people are being treated like animals."

Overcrowding, local dislike and resentment, restrictions on services, poor sanitation, disease, and great uncertainty about the future have all contributed to the rising tides of violence in the detention centers, according to the RI testimony. "What started out as peaceful demonstrations to protest the screening and the mandatory repatriation have recently turned into riots in Hong Kong, involving violent clashes with camp authorities," Hale said.

"Security, particularly for women and unaccompanied minors, remains a critical issue that is not being properly addressed.... Rapes and assaults occur with regularity," she said. (See Resources.)

In Malaysia, living space is in such

shortage on the island camp of Pulau Bidong that 75 people now crowd into living quarters designed to hold only 6 to 8, said Hale. Moreover, "Refugees have been digging under the foundations of many of the houses in an attempt to make additional space. This makes the buildings structurally unsound, creating the risk, especially in the rainy season, that the buildings will collapse."

Malaysian Pushbacks Are "Deliberate and Dangerous Abuse" of Right to Asylum If Malaysia's camp foundations are shaky, its commitment to temporary refuge and first asylum is even more so, according to Court Robinson, policy analyst for the U.S. Committee for Refugees (USCR). Since May 1989, he testified, "Malaysian authorities have pushed back more than 4,000 Vietnamese boat people, at least six to their deaths." This constitutes a "systematic, deliberate, and dangerous abuse of the right to seek and enjoy asylum."

Despite protest from the UN High Commissioner for Refugees (UNHCR) and the U.S. government, the pushbacks continue. Just back from a mid-February visit to Malaysia, Rep. Chester Atkins (D-Mass.) told the Senate subcommittee that in order for the Malaysian government to be willing to end pushbacks, the United States first must join in consensus with the region on involuntary repatriation of the screened-out.

The United States is faced with a "tragic choice...a Hobson's choice," said Atkins. "We can either maintain the moral high ground and say that we will never allow, under any conditions, forced repatriation and essentially become irrelevant to the argument. We will watch, paralyzed and helpless, the tragedy that occurs on the high seas taking hundreds, perhaps thousands, of lives. Or we can re-engage in the Comprehensive Plan of Action."

As agonizing as it may be to secure," Robinson said, in order to bring a halt to pushbacks in Malaysia, "the United States must seek a new consensus on involuntary repatriation of the screened-out...with some compromise likely to be needed on the length of the moratorium."

"Any nonvoluntary return of the screened-out," Robinson added, "must be contingent, of course, on a fair and credible status determination and on Viet-

namese guarantees of nonreprisal, verifiable through international monitoring. These conditions cannot be compromised."

As further incentive to the Malaysian government to end pushbacks, USCR testimony recommended that the United States should make new commitments on the resettlement of some of the 7,300 longstayers in Sungei Besi camp, as well as contributions of additional emergency funds for implementation of the CPA.

Cambodians and Burmese Refugees in Thailand Face Protection Crises

In late January, according to USCR testimony, Khmer Rouge guerrillas removed more than 4,000 Cambodian civilians in Borai camp on the Thai-Cambodian border and relocated them to sites along the so-called "hidden border" and inside Cambodia. The Khmer Rouge did this "to thwart a UN effort to transfer this population to Site K, a camp farther inside Thailand with better international access. Relief officials have evidence that the Khmer Rouge used force to prevent people from boarding trucks for Site K."

In the last 18 months, Khmer Rouge authorities have moved an estimated 30,000 people out of internationally supervised refugee camps inside Thailand.

On March 6, in what many observers have called a surprising shift in policy, Thai Prime Minister Chatichai Choonhavan proposed that the border camps holding 300,000 Cambodians be closed and the residents moved to neutral camps run by UNHCR.

Relief agencies welcomed the proposal and recommended that Khao I Dang camp be employed for that purpose. A Khmer Rouge official, however, told the Bangkok Post that the Khmer Rouge would not participate in the move to neutral camps, prompting fears of additional large-scale forced relocations of civilians under KR control.

In the last two months, according to USCR testimony, Burmese army attacks along Thailand's western border have forced more than 17,000 refugees to flee into Thailand, "where they are living without legal status and precious little international assistance."

The new refugees--of whom 2,000 are Burmese students and about 15,000 are ethnic minorities--join about 24,000 Burmese refugees already in Thailand.

The United States has provided \$250,000

in humanitarian assistance to Burmese students and offered parole status to four Burmese and refugee status to one.

"While resettlement is not the primary need of Burmese refugees in Thailand," Robinson said, "we feel the United States must do more to demonstrate its commitment to this group. The more critical need is to persuade Thailand to offer some form of temporary asylum to Burmese who so clearly are fleeing persecution and substantial human rights abuses."

CONGRESSIONAL COMMITTEES HOLD HEARINGS ON HUNGER IN NORTHERN ETHIOPIA AND SUDAN

Millions of people in northern Ethiopia and Sudan are without food. In both countries, increased fighting and the intransigence of government and rebel leaders have disrupted existing relief programs and threaten plans for new efforts to get food to those at risk. And time is running out: the rainy season, when roads become impassable, is almost at hand in both regions.

These were among the concerns raised at hearings on war and famine in Ethiopia and Sudan held by the House Subcommittee on Africa and the International Task Force of the Select Committee on Hunger on February 28 and March 15.

Northern Ethiopia More than 4.9 million people are at risk of starvation in Eritrea, Tigray, and other areas of northern Ethiopia (See Refugee Reports, Volume XI, Number 2). In his opening statement at the February 28 hearing on Ethiopia, Rep. Donald Payne (D-N.J.), acting chairman of the Africa subcommittee, noted that while 75 percent of those at risk live in areas under the control of insurgent groups, two-thirds of all aid to the region was being sent to areas under government control through the port of Massawa.

Payne said that it was necessary to maximize the capacity of the cross-border operation (through which food goes to insurgent areas via Sudan). He said this was particularly important because the flow of food aid through Massawa had been disrupted by the Eritrean People's Liberation Front (EPLF) attack on Massawa in early February.

Andrew S. Natsios, director of the State Department's Office of U.S. Foreign Disaster

Assistance (OFDA), said that if no agreement could be reached between the Ethiopian government and the insurgent groups to create relief corridors for the safe transportation of food, "We will see hundreds of thousands of people die."

Political Solution The need for a political solution to the conflicts in northern Ethiopia was stressed. "The Eritrean problem must be addressed directly," said Herman J. Cohen, Assistant Secretary of State for African Affairs. "They [Eritreans] have been fighting since 1962 for self-determination," Cohen added, and the Ethiopian government must address this directly.

Rep. Tony Hall (D-Ohio), chairman of the Hunger Committee, said that the committee had written to Soviet President Mikhail Gorbachev regarding the famine, and that he had just received a response. In a letter to the committee, Gorbachev had expressed Moscow's concern over the growing crisis, and pledged Soviet support for seeking a political solution to the war.

Despite the positive response from Gorbachev, prospects for a political solution may not be good. Cohen said that he was not convinced of the commitment of any of the parties in the conflict to either relief or peace.

"Let the Food Get Through" Rep. Gary Ackerman (D-N.Y.) criticized all the warring parties for putting lives at risk. Addressing any representatives of the insurgent groups or the Ethiopian government in attendance at the hearing, Ackerman said, "If you are going to let your children die, then shame on you. And if we allow it to happen, shame on us." Ackerman said that the committee, the congress, and the rest of the world cannot sit back and watch people die. Ackerman urged all sides in the conflict to "stop the fighting and let the food get through."

War and Famine in Sudan In 1988, more than 250,000 southern Sudanese reportedly starved due to war and drought-induced famine. Many are once again without food. The March 15 hearing on the current situation in Sudan focused on the possibilities for the start-up of Operation Lifeline Sudan (OLS) II, a proposed follow-up to the UN-sponsored relief effort that is said to have helped



In the very south of Sudan, there is no food. The effects of malnutrition are already quite visible on these young boys. USCR director Roger Winter, testifying on what he saw during a recent site visit to south Sudan, said, "Everywhere I went, people said they were hungry....I could routinely see old women forty feet up in the tops of trees, picking leaves to eat."

USCR/R. Winter

avert widespread famine in 1989, and on human rights abuses in the Sudan.

During the hearing, both sides in the Sudan conflict--the government and the Sudan People's Liberation Army--were also criticized for putting military and political considerations above people's lives. Rep. Dan Burton (R-Tex.), pointing to the recent shelling of Juba (the government-held capital of southern Sudan) by the SPLA, and to the government's preventing civilians from leaving the city, said, "The two sides in the civil war apparently have no regard for

the value of human life."

Prospects for Operation Lifeline Sudan II

OFDA's Natsios appeared confident regarding the future of OLS II. "Recent commitments and assurances from the Government of Sudan give hope that OLS II can be launched soon," he told the committee. However, another witness, U.S. Committee for Refugees director Roger Winter, who had just visited southern Sudan, said, "I'm not that optimistic about Lifeline Sudan II." Sudanese government and OLS leaders had reached agreements without full consultation with the SPLA, and that could lead to problems, Winter said. Refugee Reports subsequently learned that the SPLA has rejected OLS II because it had not been fully consulted regarding the proposal.

Winter expressed concern regarding the critical food shortages he saw in southern Sudan. "The dry season in south Sudan is almost over and effective steps to stock adequate food supplies have not been taken," Winter said. He told of having seen old women climbing 40-foot high trees to pick leaves to eat. "We must do what is necessary to improve the food flow to the South now," Winter said.

Winter also drew attention to the plight of the 300,000 civilians trapped in Juba. He urged U.S. and international authorities to seek agreement from both the government of Sudan and the SPLA to permit the civilians in Juba to choose whether to leave the city or remain there. Winter then recommended an "internationally supervised evacuation of those who wish to leave."

Ackerman expressed concern about the two million displaced southern Sudanese who are living in shantytowns built atop garbage dumps on the outskirts of Khartoum. "Why is there no outcry from the international community regarding the situation of the displaced in Khartoum?", Ackerman asked.

Human Rights Abuses

Aryeh Neier, executive director of Human Rights Watch, said that while the government that was ousted by a military coup in June 1989 was guilty of massive human rights abuses, "None compare with the cruelty and intolerance of the present regime, which reflects a dangerous mix of militarism and religious fanaticism." "Considering the enormity of

abuses in Sudan, the United States has been remarkably quiet," Neier added.

HATE CRIME BILL PASSES SENATE

On February 8, the Senate passed a bill (S. 419) to provide for the collection of data about crimes motivated by race, religion, ethnicity, or sexual orientation. The bill's sponsor, Sen. Paul Simon (D-Ill.), opened the debate by telling the story of a man of Chinese ancestry who was killed in North Carolina last July. "The people that killed him thought he was Vietnamese," said Simon. "They were out to get someone who was Vietnamese."

In addition to citing cases of American minority groups subjected to hate crimes, Simon cited the cases of several other immigrant victims of hate violence. He included the case of an Ethiopian immigrant last November in Seattle who was clubbed to death in front of his apartment building by a group of "skinheads" wielding baseball bats.

Sen. Spark M. Matsunaga (D-Hawaii), a cosponsor of the bill, said that Asian Americans are disproportionately likely to be victims of racially motivated crime. "While statistical data relating to Asian Americans is hard to come by," he said, "communities that do keep records report that Asian Americans in Los Angeles County were victims in 24 percent of all racially motivated crimes in 1986--a 10 percent increase over 1985."

Matsunaga said that in Boston, where Asian Americans represent only 3 percent of the population, they were victims of racially motivated crimes 33 percent of the time in 1986. He noted that Chicago also reported a substantial increase in crimes against Asian Americans between 1985 and 1989.

The bill was widely supported on both sides of the aisle and by the Administration. Only four Senators, led by Jesse Helms (R-N.C.), opposed the bill. Helms called the bill "the flagship of the homosexual, lesbian legislative agenda."

Update

* Mexican immigration authorities have arrested as many undocumented Central

Americans in the first two months of 1990 as in all of 1989, said a report in the February 21 Houston Chronicle. "In the first 45 days of this year, we have already arrested 85 percent of the foreigners we got last year," said Antolin Licona Lopez, Mexican immigration chief for the Texas border region. He said that 520 Central Americans were arrested in January and more than 500 in the first half of February. About 1,200 were arrested in all of 1989.

Licona said that despite a Mexican government crackdown on the southern border with Guatemala, thousands of Central Americans were still moving northward through Mexico en route to the United States.

The Brownsville Herald reported on February 19 that the Matamoros city jail was jammed beyond capacity with undocumented Central Americans. Matamoros is the Mexican city just across the border from Brownsville, Texas. City police officer Jose Saucedo Tovar said that 84 Central Americans were currently in custody, including 16 women and 4 children. He said that because there is only one cell available, they were forced to use the jail's storage room for the women and children. All of the men are confined to one cell with no beds. They are so crowded that they cannot all lie down at once. Saucedo expressed the fear that there would not be enough food to feed the detainees and said they are sometimes required to buy their own food.

Earlier a Mexican-based human rights group, the Center for Migratory Information and Studies, charged that conditions of detention in Matamoros violated the human rights of the refugees, according to a story in the January 21 Brownsville Herald.

A reporter touring the cell where Central Americans were detained wrote, "No beds could be seen; and judging by the odor, the toilets were not working well." The reporter interviewed an incarcerated 15-year-old Salvadoran boy who said that he had only eaten two tortillas in two days. The reporter said that the boy "choked back tears as he explained that he fled his native country after he deserted a guerrilla army and feared retribution."

* The West German government has announced that it will close migrant reception camps and cut off cash benefits to migrants as of July 1, the Washington Post.

reported on March 21. The move, announced shortly after pro-reunification forces won handily in East German elections, is intended to discourage East Germans from moving to the West. About 720,000 ethnic Germans entered West Germany last year. In recent weeks, they have continued to enter the country at the rate of about 2,000 a day.

° A last-minute flood of Romanian asylum seekers poured into Austria on March 13 and 14 prior to the imposition of new visa requirements as of midnight March 14. In all, an estimated 5,000 to 7,000 Romanians crossed into Austria in a 24-hour period.

Austrian Chancellor Franz Vranitzky said in a radio interview, "The people coming into this country are economic refugees and they are not being politically persecuted." The Traiskirchen refugee camp was closed and local residents blocked roads leading to the camp. Austria has already issued visa requirements of Bulgarians and Turks, and the Austrian parliament is debating a bill to allow the police to check the documents of travelers on planes prior to disembarking, according to the March 15 New York Times.

° A multi-million dollar UN program to educate Afghan refugees on clearing mines has come under sharp criticism from the former field supervisor of the operation.

Rae McGrath, who quit the program, told the Washington Post that the UN grossly exaggerated the impact of its program and wasted large sums on poorly planned and badly monitored educational programs.

The UN has raised \$30 million for the mine clearing operation. Some 20,000 refugees have been paid about \$15 each to attend two-week courses in mine clearance, but have not been required to return to Afghanistan to clear mines. So far, only one team of 27 persons has actually gone into Afghanistan to clear mines. Until mines are cleared, some three million Afghan refugees in Pakistan are unlikely to repatriate in significant numbers.

° On February 8, Sens. Robert W. Kasten (R-Wis.) and Patrick J. Leahy (D-Vt.) introduced a bill (S. 2119) to provide \$400 million through the Housing Investment Guaranty program to assist Israel in absorbing Soviet Jews. The \$400 million in loan guarantees

would be sufficient to finance the construction of 30,000 housing units and infrastructure requirements to accommodate the influx of Soviet Jews. Leahy said that he would also include the bill or a variant of it as a provision in the refugee supplemental appropriation for FY 90.

° The Canadian government endangered the life of a Sikh asylum seeker by sending his picture to the authorities in India, asking them to determine whether he was a terrorist, an asylum adjudicator ruled in early March.

The Sikh was a passenger on a boat that landed in Nova Scotia in July 1987, an incident that touched off an anti-immigrant backlash, resulting in an overhaul of the laws governing asylum adjudication.

In his written decision, the asylum adjudicator said that he was convinced that the claimant's family had been harassed as a result of the Canadian government's move to identify the man. "By reason of the very public nature of your arrival in Canada and the use of the photograph for identification sent to the Indian government," wrote the adjudicator, "you have undoubtedly come to the notice of the police and probably caused the Indian government some embarrassment."

"The Canadian government, by its actions, made everybody on that boat a refugee," Lorne Waldman, a Toronto lawyer representing the Sikh asylum seeker, told the Toronto Globe and Mail on March 13.

° "A widespread pattern of discrimination" against people who are or appear to be foreign born was found among businesses in the New York metropolitan area in a report issued on February 28 by the New York State Inter-Agency Task Force on Immigration Affairs.

The study is the latest in a series of reports that have found flaws with the 1986 Immigration Reform and Control Act, due to resulting discrimination against foreign or foreign-looking job seekers (see Refugee Reports, Vol. XI, No. 1). The report found that nearly one-fifth of the medium-sized companies in New York City have established policies that deny jobs to foreign born or those with temporary work authorization.

"How can you say there's more discrimination, when there was never any study be-

fore the 1986 law to determine discrimination in the work place?" asked Immigration and Naturalization spokesman Duke Austin, as quoted in the February 26 New York Times.

° Lionel A. Rosenblatt has succeeded Shepard C. Lowman as president and executive director of Refugees International. Berta Romero has also joined RI as director of programs.

Rosenblatt is a former U.S. foreign service officer with years of experience in refugee affairs in Southeast Asia and Washington. Romero formerly coordinated U.S. refugee processing in Thailand and later worked with the National Immigration, Refugee and Citizenship Forum in Washington. Lowman will remain on the RI board.

° Douglas Stafford has been appointed as the deputy UN High Commissioner for Refugees, succeeding Arthur C. Dewey. Both men are American citizens. Since 1985, Stafford has served as head of the Bureau for Finance and Administration in the UN Development Program, and prior to that held senior posts with the U.S. Agency for International Development and the Peace Corps.

Resources

[Editor's Note: The following resources are discussed in this month's lead story. Here, we include information about how to obtain these reports.]

1) "The Implementation of the Refugee Act of 1980: A Decade of Experience," by the Lawyers Committee for Human Rights, is available for \$8. To order this 97-page report, contact the LCHR at 330 Seventh Avenue, 10th floor, New York, NY 10001.

2) The 36-page Amnesty International U.S.A. report, "Reasonable Fear: Human Rights and U.S. Refugee Policy," can be ordered from Amnesty International U.S.A., Publications Department, 322 Eighth Avenue, New York, NY 10001. At press time, the price was not yet set. For further information on price, call Lisa Berg at (212) 807-8400.

3) Copies of the 9-page executive summary of "Determining Asylum Claims in the United

States," by Deborah Anker, are available from the author for \$3 by contacting her at the Harvard Law School, Pound 511, Cambridge, MA 02138.

4) Free copies of the 134-page "Reforming Asylum Adjudication," by David Martin, can be obtained by contacting Kevin Jesser at the Administrative Conference of the United States, 2120 L St., NW, Suite 500, Washington, DC 20037.

5) Free copies of the 85-page "Deporting and Excluding Aliens from the United States" (GAO/GGD-90-18) are available from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, MD 20877. (202) 275-6241. More than 5 copies are available at \$2 each.

HUMAN RIGHTS DIRECTORY: LATIN AMERICA AND THE CARIBBEAN

The Human Rights Internet, in conjunction with the Programa de Derechos Humanos de la Academia de Humanismo Cristiano (Chile), recently published the HRI Reporter Human Rights Directory: Latin America and the Caribbean (January 1990). The 528-page, bilingual (English/Spanish) directory provides a comprehensive listing of organizations, both within the region and based elsewhere but all focusing on human rights and social justice issues in Latin America.

More than 1,000 groups are listed in the directory. For more than 800, background information and details of the group's services and objectives are provided, along with addresses and other contact information. The first chapters list organizations with a regional focus, while later chapters provide country-by-country listings. Another 140 international human rights organizations are also listed.

Included in the directory are not only groups that focus on the security of the individual and on civil, political and other rights, but also organizations concerned with the rights of indigenous peoples, women, children, and refugees.

Single copies of the Directory may be ordered for \$50.00 from Human Rights Internet, Harvard Law School, Pound Hall, Room 401, Cambridge, MA 02138. (617) 495-9924. The Directory is available to HRI subscribers at half price.

AN AMERICAN STUDENT COMPILES WRITINGS OF HIS SOUTHEAST ASIAN CLASSMATES

The String Bracelet: Reflections of and by the Young People of Southeast Asia is a collection of twenty-four essays, poems, and other writings by and about refugee youth from Cambodia, Vietnam, and Laos.

The project was compiled by Kyle Farmbry, now a nineteen-year-old sophomore at George Washington University, after the death of a Cambodian-born classmate during his senior year in high school awakened him to the deep and little-understood concerns that many of his Southeast Asian peers are experiencing.

The stories reflect the challenges that these young people have faced. They tell of life under the genocidal Pol Pot regime in Cambodia, and under the governments of post-war Vietnam and Laos. They also tell of the terror of escape: crossing a mine field or wide river in the dark of night, suffering attack by pirates at sea or bandits on land, witnessing the violent deaths of family members and friends. Finally, the stories reflect the complexities of life in a new land and the process of acculturation in American society.

According to Farmbry, "I began to talk with many of the Southeast Asian students for a school newspaper article I was writing regarding the death of the Cambodian student. I found myself in a state of disbelief about what this student had endured. In addition, I was amazed at the incredible resilience that he and so many other students from this region of the world displayed."

"Ultimately," he adds, "I saw such a collection of stories as helping Southeast Asian and non-Southeast Asian students to begin to understand one another and perhaps begin to bridge many of the cultural gaps that exist between them."

The book is currently being used in classrooms in the Philadelphia and Los Angeles School Districts to encourage such cross-cultural communication.

The String Bracelet is available in paperback from Intercultural Productions, P.O. Box 57343, Washington, DC 20037, for \$8.95 per copy (plus 10 percent for shipping and handling). For further information, contact Kyle Farmbry at (202) 347-3507.

"Dream of Someone Beautiful," by Saveth Noun, is excerpted from The String Bracelet.

If I try to imagine the past, nothing appears in my mind. Only my brother's picture is possible to dream about.

He died during the communist revolution that took place in Cambodia. He disappeared from this world ten years ago. But his picture is still hanging alive in my imagination. His name was Noun Sam Nang. He was born in 1963. He was my best brother.

My tears will trickle when I think about his picture, because he died with misery and starvation. I hope he has a good life in his next reincarnation. I hope he is born in a peaceful land with plenty of food.

My brother always had good ideas and gave me good advice. Before he died, he told me, "Believe me brother, life is unpredictable. Life in the world is like the water in the river..."

But don't let your life pass away without receiving advantages from the world and nature which surrounds you." My brother was patient, polite, and very responsible. He took good care of me and my brother, my sisters.

My family tried to keep his picture, but it vanished almost six years ago.... But I still remember it.

He is standing in front of my house, holding his girlfriend's shoulder.... Whenever I saw his picture in my mind before, I lost it. But this time I see his character, and the way he was, in the picture.

Among the boys who grew up the same as his generation, no one was as beautiful as him.... He was strong. His body was full of muscle. He always smiled. You could tell that he was kind.

Now, after writing, his exact face has slipped from my mind...

If you can't imagine my brother, then dream of someone who is beautiful, like him.

"REFUGEES IN OUR BACKYARD"

A new 58-minute documentary film explores the reasons Central Americans have been displaced from their homes and tracks their migration to the United States.

"Refugees in Our Backyard" shows the effect of civil war in three Central American countries, and includes footage of the Mesa Grande refugee camp in Honduras and of the Mexican-Texas border region.

The film, narrated by Sigourney Weaver, explores the controversies surrounding the migration of undocumented asylum seekers and includes interviews with Border Patrol and Immigration and Naturalization Service officials, as well as refugee rights advocates.

The 16 mm. film is priced at \$900 (\$125 for rental). A video version is sold for \$390, but is not available for rent. To order, contact James Lee, First Run--Icarus Films, 153 Waverly Place, 6th floor, New York, NY 10014. (212) 243-0600.

WOMEN'S COMMISSION DENOUNCES "INHUMANE CONDITIONS" IN HONG KONG DETENTION CENTERS

In January, a delegation of the Women's Commission for Refugee Women and Children spent eight days in Hong Kong, investigating conditions in the detention centers housing Vietnamese boat refugees (see Refugee Reports, Vol. XI, No. 1). The Commission has just issued its report on that visit.

Copies of the 18-page report are available free-of-charge from the Women's Commission for Refugee Women and Children, c/o the International Rescue Committee, Inc., 386 Park Ave. South, New York, NY 10016. (212) 689-3459.

A related report, Hong Kong: The Other Story: The Situation of Vietnamese Women and Children in Hong Kong's Detention Centers, has been prepared for the Indochina Resource Action Center by Diana D. Bui, a member of the delegation. The 32-page report is largely taken from Bui's journal entries during the visit. Copies are available at \$5 each, including postage and handling. Contact the Indochina Resource Action Center, 1628 16th Street, NW, 3rd floor, Washington, DC 20009. (202) 667-4690.

TO THE PROMISED LAND

"We people are forced to emigrate to other places even though we love our land."

Pablo G., Age 29

Pablo and many other voices of undocumented Mexicans are heard in To the Promised Land, a book of essays, quotations, and photographs about the migration of Mexicans to the United States.

Divided into three parts--Mexico; La Frontera; and El Norte--the message and strength of the book is driven by its powerful black and white photographs. La Frontera is captured by a close-up of a pair of feet that have traveled many miles; a group of people stuffed into the trunk of a car; a tattered sweater on the barbed wire fence separating the two countries.

Photographer Ken Light commented, "I once saw a driver leave the car in drive, open the door, and just run. The car was still going and there were people in the trunk and in the front seat."

Light spent four years photographing the Mexican-American border region. His photographs trace the journey from rural Mexican villages to the border, and on into the shadow existence of undocumented aliens in El Norte.

To the Promised Land is published by the Aperture Foundation in association with the California Historical Society. It is available for \$25 from local book stores or from Aperture, 20 East 23rd St., New York, NY 10010. (212) 505-5555.

A GRINGO CROSSES THE BORDER

What Ken Light captures in pictures (see previous story), Ted Conover captures in words in Coyotes: A Journey Through the Secret World of America's Illegal Aliens.

Conover tells the riveting story of his experience living among undocumented Mexican migrant laborers, sharing their backbreaking work, and the ever-present fear of the Border Patrol, La Migra, and the Immigration and Naturalization Service.

Conover also traveled to Ahuacatlan, the home town of his Mexican friends, and lived there for a time. He saw a town in which seven out of ten households lack a husband or father. He quotes the local

priest as saying, "The men come home once a year, they make their wives pregnant, and then they leave again. The wives get so frustrated; 'I married a man, not a letter, not a U.S. Postal Service money order!' one said to me. The children of these families have a character that is colder than normal."

Conover also traveled with his Mexican companions within Mexico and the United States, and accompanied them in the illegal crossing between the two countries.

He tells a harrowing story of being stopped by Mexican Federal Judicial Police --*los judiciales*--armed with an assortment of rifles and automatic weapons. Unaware that a gringo was among the group of captured migrants, the federal police beat and tortured Conover's friends until his identity, including the press card he carried, was revealed. After paying heavy bribes, his companions were released.

On another occasion *los judiciales* stopped a bus in which he and his friends were traveling on the way north. They grabbed a Guatemalan, also considered an illegal alien in Mexico. "When the man could produce neither a Mexican draft card nor immigration papers, he had been ordered to strip. Sewn into the cuff of one of his pant legs was \$150; the police found it and kept all but \$10."

Conover made the trek across the desert at the Organ Pipe Cactus National Monument, the very place where 13 Salvadorans had perished in 1980. Hiking at a brisk pace with virtually no food or water along with men who had been badly beaten by *los judiciales* the day before, Conover marveled at the strength and determination of his companions. "It was an entirely different sort of trip than any American might make: we weren't there for outdoor exercise, or for education about the environment; this wasn't a game." Conover observed, "People crossed for work or to escape war, but never for fun."

Yet Conover's tale makes fun reading in the best tradition of picaresque adventure. The reader feels his tension as coyotes--alien smugglers--eye him suspiciously, wondering whether to take him across the border or to slit his throat, suspecting him as an undercover INS agent. Finally, the reader begins to admire Conover himself not only for the cleverness and humor that

helps him out of so many jams, but for his sensitivity to his subjects, and for the friendships he has won across a great cultural divide.

"What *La Migra* does not know--what it perhaps cannot afford to know--" writes Conover, "is the more human side of the men and women it arrests, the drama of their lives." Conover says his is not a policy book, but rather a story. "It relates to policy only insofar as I hope through it to flesh out a missing perspective of those whom the whole thing is about."

Conover says that immigration policy debates have dehumanized the Mexicans, "turning them from people into 'illegal aliens.'"

In *Coyotes*, their humanity comes through. Some better, some worse. But, as Conover, puts it, "These are the guys. They're not perfect, but the majority would make good neighbors; I'd welcome them as mine. I found the illegal immigration monster to be the sort that's less scary up close than it is from a distance."

Coyotes is published by Vintage Books of Random House, and is available through local bookstores. It can also be ordered directly from Vintage Books for \$6.95, plus \$2 postage and handling, by calling 1-800-733-3000. Telephone orders must include the ISBN number, 0-394-75518-9.

Reader Exchange

* The Midwest Regional Immigrant Rights Center (MIRC), a regional pro bono program providing legal representation to asylum applicants, has an immediate opening for an experienced attorney to be director. The director will administer the department and be responsible for supervising the pro bono program staff. MIRC currently administers a panel of more than 200 volunteer attorneys, interpreters, and expert witnesses, and represented asylum applicants from more than 20 countries last year. MIRC is a program of Travelers and Immigrants Aid of Chicago.

Full benefits are offered and salary is negotiable. Send resumes and inquiries to Craig Mousin, MIRC, 327 S. LaSalle, Suite 1400, Chicago, IL 60604. (312) 435-8088.

**FY 89 U.S. FORCED RETURNS OF
CENTRAL AMERICANS AND HAITIANS**

	To: <u>Nicaragua</u>	<u>El Salvador</u>	<u>Guatemala</u>	<u>Honduras</u>	<u>Haiti</u>
Deportations	110	3,904	3,454	2,912	133
Exclusions	5	25	13	37	759
Required Departures	84	802	568	219	29
Total	199	4,731	4,035	3,168	921
Interdicted at Sea and Returned					4,551
TOTAL					5,472

Source: Immigration and Naturalization Service

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FOLLOWING NICARAGUAN ELECTIONS, MIXED PROSPECTS FOR REFUGEES

For many Nicaraguan refugees, the first response to the Sandinista defeat in the February elections was to celebrate. Thousands of flag-waving, horn-honking Nicaraguan exiles poured onto the streets of Miami's "Little Managua" neighborhood. Two months later, as the Sandinistas hand over the reins of power to opposition leader Violeta Chamorro, many Nicaraguan refugees are adopting a "wait-and-see" approach before making any decisions about their future.

"We Don't Know for Sure What Will Really Happen"

One Nicaraguan woman who has been in the United States since 1988 told Refugee Reports, "I truly would not like to return because I worry that it will always be the same. Just recently, Ortega said he might not hand over power if the Contras don't disband. I'm not so sure that things will change that fast. But my husband's family has a ranch in Nicaragua, and here life is very hard."

As has been the case with an increasing number of other Nicaraguans during the past year, the woman and her family have been denied asylum. The rate of approval for Nicaraguan asylum applicants, not long ago the highest for any nationality, has dropped from 84 percent in 1987 to only 26 percent approval in 1989. The family has appealed, but expects eventually to be deported. With the new government in office in Nicaragua, the woman says that if she and her family are deported, "We will return with less fear. But still, we would not like to be deported."

Another Nicaraguan man interviewed said that most of his friends would like to return, but that they would prefer to wait until the situation stabilizes. "We don't know for sure what will really happen," he said, "and we can't afford to lose what we have here."

According to Dr. Jose Antonio Alvarado, coordinator of the Nicaraguan Task Force in Miami, "About 4,000 Nicaraguans have already returned, but most people will probably wait until around December to see if things really change before deciding whether to return." Even then, however, Alvarado believes that only about 25 percent of the estimated 100,000-200,000 Nicaraguans

IN THIS ISSUE:

This month Refugee Reports focuses on repatriation, with several articles on the subject. First, Hiram Ruiz looks at the effect of a new government in Nicaragua on the Nicaraguan community in the United States, and on the legal implications of returning to Nicaragua for those involved in the U.S. asylum process.....1

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in Miami will choose to return home.

Those who have money to invest in the Nicaraguan economy are being courted by Chamorro's economic advisers. But a thorny problem yet to be fully resolved is that of compensation for returnees whose property was confiscated by the Sandinistas. Those properties include an estimated 10,000 homes. The Sandinista government recently enacted a new law that grants legal titles to those properties to their present occupants.

However, getting home may not be easy for Nicaraguans who may want to return but who have found it difficult to work or save money in the United States. According to Alvarado, "the Administration has proposed an allocation of \$47 million to assist the Contras to repatriate, but no funds to assist Nicaraguans in the United States to return home." Alvarado adds that it is also unlikely that those people will be able to get any help from the Nicaraguan government once they are home. "You have to understand the situation in Nicaragua," he told Refugee Reports, "The country is broke." The only people likely to get their fares to Nicaragua paid, Alvarado said, are those deported by the Immigration and Naturalization Service (INS).

Deportation, Removal, and Voluntary Departure According to INS spokesman Duke Austin, few Nicaraguans have actually been deported. "Less than 200 have been deported in the last couple of years," Austin told Refugee Reports. But that could rapidly change. Since 1987, Nicaraguans have rarely been deported not only because of a higher asylum approval rate, but also because then-Attorney General Edwin Meese III issued a memorandum directing that Nicaraguans who had been denied asylum and who had exhausted their appeals not be deported without a Justice Department review of the case. (See Refugee Reports, Vol. VIII, Nos. 7 and 8.) Few Nicaraguans whose cases were sent for review were ever deported. With a U.S. supported, democratically elected government now in office in Nicaragua, many observers believe that could well change.

Many Nicaraguans also fear that 22,167 pending asylum applications as of the end of January 1990 will be denied, eventually leading to more deportations. In Miami, according to the April 25 Washington Post,

"word already has spread of a coming 'fire-storm' over anticipated asylum denials and a newly vigorous deportation policy."

Those who are deported are returned to their home country at U.S. government expense, but are then barred from applying for a visa to re-enter the United States for five years, unless they receive a waiver. Deportees who re-enter the United States without documentation are considered felons.

Nicaraguans who have either applied for asylum and not had a determination, who have been denied asylum but are appealing, or whose appeals have been denied but whose deportation orders are under review and who wish to return to Nicaragua at U.S. government expense can apply for "removal" (under Section 250 of the Immigration and Nationality Act). As with deportees, however, those who request removal are barred from returning to the United States for five years, unless they receive a waiver.

People in the asylum process who wish to terminate their asylum request and return home at their own expense can apply for "voluntary departure." This is a "privilege" granted by immigration judges to people of "good moral character" who are able to show they have the means to return home. The government would not pay the fare, but as there would be no record of deportation, the individual who voluntarily departs would not be barred from applying for a visa to reenter the United States.

Nicaraguans who have been granted asylum and who have adjusted their status to permanent resident may come and go without restriction, finances permitting. They must of course have proper documentation in order to reenter the United States.

Many Uncertainties for Nicaraguans with Asylum But without Permanent Residence

The situation for those who have been granted asylum but who have not yet adjusted to permanent resident, and who wish to return to Nicaragua briefly, is complex. INS guidelines for applying for adjustment of status state that an individual who has been granted asylum must have been "physically present in the United States for at least one year" before applying for adjustment. The guidelines do not, however, precisely define what effect an individual's temporary return to his/her country of origin--either before or after applying for adjust-



Nicaraguans in Little Managua, Miami.

UNHCR/L. Solmssen

ment--would have on either the individual's application for adjustment or his/her refugee status.

Refugee Reports asked INS if even a brief return to Nicaragua affects the status in the United States of a Nicaraguan in this situation. "Of course it does," INS' Austin said. While a return to Nicaragua may not impact on the adjustment application itself, Austin explained, it could well impact on the adjustment applicant's refugee status. "Asylum is not a permanent status," Austin said. "The status of being an asylee is supposed to be reviewed annually." He added, "If refugees voluntarily return to their native homeland, I think it does bring into question their claim that they are in the United States for fear of persecution in their homeland."

Austin noted that the United States does not deport people who have been granted asylum but who have not adjusted to permanent resident. He cited the case of Poles associated with Solidarity who were granted asylum here. "Would they be involuntarily returned because solidarity is now running the

country? The answer is no. The United States does not do that."

"But," he added, "if the person voluntarily returns to that country [the country of origin]... would that reflect on their case? I would say it would."

Nicaraguans with Refugee Status Eligible for Limited UNHCR Repatriation Assistance

If people with refugee status in the United States decide that they want to return home for good and want financial assistance to do so, help may be available from the UN High Commissioner for Refugees (UNHCR)--but again, with consequences. According to UNHCR's public information officer in Washington, D.C., Patricia Weiss Fagen, Nicaraguans who have been granted asylum in the United States and who therefore have refugee status but who wish to officially repatriate to Nicaragua could be eligible for UNHCR assistance. "There are people from other countries, for example Chileans, with refugee status in the U.S. who have decided to voluntarily repatriate and have been assisted by UNHCR and the Inter-

national Organization for Migration (IOM)," Fagen said. "The implication for Nicaraguans is that they could be assisted as well." UNHCR assistance is based on need, and the government of Nicaragua has to approve each refugee's application for repatriation.

Fagen notes that UNHCR's package of assistance to returnees, which includes transportation to Nicaragua and a small reinstallation grant of \$50 per adult and \$25 per child, is mostly designed to assist rural refugees returning to Nicaragua from Central American countries. UNHCR, the Organization of American States (OAS), and the United Nations Development Program (UNDP) are planning a program of assistance to returnees in Nicaragua, but funds have not yet been solicited from international donors.

Refugees who officially repatriate will, however, lose their refugee status in the United States. According to Fernando Chang-Muy, of the UNHCR Legal Counselling Project, "According to the 1951 Convention Relating to the Status of Refugees, any individual who has 'voluntarily re-availed himself of the protection of the country of his nationality' ceases to be a refugee." So far, no Nicaraguans with refugee status in the United States have applied to UNHCR for voluntary repatriation.

Nicaraguan Refugees in Central America

Many Nicaraguan refugees in Central America are faced with similar decisions. There are an estimated 26,500 officially registered Nicaraguan refugees in Costa Rica, 23,600 in Honduras, and smaller numbers in Guatemala and El Salvador. Many other Nicaraguans are living in these countries without documentation.

According to UNHCR's representative in Costa Rica, Ana Liria Franch, since the February elections, the rate of requests for voluntary repatriation has more than doubled, from an average of 100 per month before the elections to 200-300 per month since then. Assistance for refugees returning to Nicaragua from Central American countries includes agricultural tools, seeds, and construction material as well as the transportation home and the reinstallation grant.

In Costa Rica, where besides the registered refugee population there are an estimated 80,000-250,000 other, undocumented

Nicaraguans, the government has been eager for the Nicaraguans to repatriate. Shortly after the Nicaraguan election, Costa Rican officials announced that the refugee status of Nicaraguans would be revoked, making them deportable. According to UNHCR's Franch, that announcement was "precipitous," and the Costa Rican government now accepts that repatriation will take time. "No one is talking about terminating Nicaraguans' refugee status at this time," Franch told Refugee Reports. "Refugees' identity cards are being renewed as they expire." She added, however, that the issue might be reviewed later in the year, as the situation in Nicaragua becomes clearer.

Recent Developments

HONDURAS: COLOMONCAGUA AND SAN ANTONIO REFUGEE CAMPS CLOSED

EL SALVADOR: SIX RETURNEES KILLED

During recent months, an estimated 10,000 Salvadoran refugees who were living in Honduras have voluntarily repatriated to El Salvador. Consequently, according to the UN High Commissioner for Refugees (UNHCR) office in Honduras, Colomoncagua and San Antonio refugee camps, "two camps which have made the headlines of refugee history in Central America during the last decade," were closed on February 27 and March 4, 1990 respectively. Some 2,500 Salvadoran refugees remain at Mesa Grande camp, but, according to UNHCR, they "are not envisaging voluntary return at the present time."

Salvadoran refugees began entering Honduras in 1980. Suspicions that the refugees were supporting Salvadoran guerrilla activities led to the Honduran government sealing the camps and restricting the refugees' movements. Over the years, there have been numerous reports of abuses against the refugees by Honduran military personnel. In 1988, there were two separate incidents in which refugees were killed in or near the camps by Honduran military personnel. Relations between the refugees, the Honduran authorities, UNHCR, and various private relief groups working in the camps were often strained.

Going Home The recent large-scale re-

patriations began in October 1989, when 1,127 refugees from Mesa Grande returned to El Salvador (See Refugee Reports, Vol. X, No. 11). That repatriation--like other repatriations in 1987 and 1988 (See Refugee Reports, Vol. VIII, No. 10, and Vol. IX, No. 9)--was characterized by disagreements between the refugees, the Salvadoran government, and UNHCR, and further official repatriations were temporarily suspended. In November, problems between the various groups had not yet been ironed out, but 1,700 refugees from Colomoncagua camp decided to repatriate without the Salvadoran government's approval or UNHCR assistance. The refugees walked back to El Salvador.

UNHCR-organized repatriations resumed in January and concluded on March 3, 1990. According to UNHCR, the official repatriations were carried out "in conditions of safety and dignity." Once home, however, some returnees have found the conditions far from safe.

According to a report by members of a delegation of the International Council of Voluntary Agencies that visited El Salvador in January, "Salvadoran refugees returning from Honduras were considered by governmental authorities to be FMLN supporters. Local agencies or church organizations seeking to assist the refugees have also been accused of supporting the insurgents.... The mission also heard of attacks by the armed forces against resettlement villages in Chalatenango and Cuzcatlan [provinces], causing the destruction of crops and cattle."

A Scene of Anguish and Confusion On February 11, 5 returnees--including 4 children--were killed and at least 15 others wounded when fighting broke out between government troops and Salvadoran rebels near Corral de Piedra, a village in Chalatenango province that is home to about 500 returned refugees.

According to an American nun who was in the village at the time, "Salvadoran Air Force helicopters and A-37s [Dragonfly jets] strafed and rocketed" the village. "Four families had taken refuge in a tiny brick house when the aerial bombardment began," the nun said. "Everyone in the house when the rockets hit was either killed or wounded." When she arrived at the house, she said it was "a scene of anguish and

confusion: friends and family standing, staring, sobbing."

According to the New York Times, "The armed forces denied... that it had attacked the camp, but declined to allow journalists to visit the scene." But the nun, one of several North American sisters who reportedly witnessed the attack, accused the Salvadoran government of "lies, distortions, and misinformation." She said that there had been "almost daily ground fighting and aerial bombardment near one or more of the [returnee] communities." Seven civilians had been wounded in Guarjila, two in Los Ranchos, and four in Las Vueltas prior to this incident, she said.

AFGHANS TO RETURN TO "ZONES OF TRANQUILITY"

April 14 marked the second anniversary of the signing of the Geneva Accords that was to have brought peace to Afghanistan and the return of nearly six million refugees from Pakistan and Iran, the world's largest refugee population.

The situation has changed greatly in the two years since the signing of the Accord, but two major realities are unchanged: peace has not come to Afghanistan and the refugees have not returned.

Given that the prospects for a comprehensive peace are absent in the foreseeable future, but that warfare since the withdrawal of Soviet troops has been more localized, the UN-appointed Coordinator for Afghanistan, Prince Sadruddin Aga Khan, has recently stepped up his call for the return of Afghan refugees to "zones of tranquility" where fighting has died down and access to UN assistance, through the Coordinator's Operation Salam, is possible.

In a recent Yale Law School speech and on the op-ed page of the Washington Post, Prince Sadruddin spelled out his plan. "One of the functions of humanitarian aid and economic reconstruction is to serve as building blocks for peace. Operation Salam's activities should not, therefore, be delayed until there is peace, but rather should precede it."

In a March 27 press conference in Pakistan, Sadruddin was joined by the new UN High Commissioner for Refugees, Thorvald Stoltenberg, and the World Food Program

director, James Ingram, to call for stepped up efforts to repatriate refugees from Pakistan this year.

The group said that fighting has eased in about two-thirds of the country, and that hostilities had ceased in a number of provinces, among them Badakhshan, Badghis, Hazarajat, Herat, Kunar, Logar, and Nimroz.

In his Yale speech, Sadruddin said, "Despite continued fighting in many parts of the country, large areas are now accessible, relatively peaceful, and fully capable of absorbing whatever aid can be provided." He said that this is the easiest it has been in a decade to move freely within Afghanistan, and noted that "some sort of UN assistance has reached every one of Afghanistan's 29 provinces."

The State-run news service of the Afghan regime reported on March 27 that President Najibullah had met with the UN delegation and that he "stressed that the state of the Republic of Afghanistan is ready to prepare all possible facilities in regard to the UN efforts for rendering UN humanitarian aids to the people of Afghanistan both in the areas controlled by the RA state or the regions which are under the opposition's activity."

Kabul radio reported that a memorandum of understanding was signed between the Foreign Ministry and Sadruddin committing the Afghan government to donate to the mine-clearing project.

The reception from the *mujahedin*-led Afghan Interim Government (AIG) Prime Minister Abdul Rad Rasul Sayyaf was not so cordial, according to a report in the Pakistan-based *The Muslim*. According to that report, the head of the resistance government-in-exile said that refugees from Pakistan would not return until an Islamic government was established in Kabul. The March 28 report of his meeting with Sadruddin said that Sayyaf resented the fact that the UN delegation had held talks with the Pakistani authorities, saying that all issues related to refugees should be raised with the AIG. He said that the UN Coordinator had only discussed with him aid to internally displaced Afghans, and had not discussed repatriation. He further accused Sadruddin of interfering in Afghanistan's internal affairs, according to *The Muslim*.

Sayyaf reportedly warned that UN distribution centers should not be set up in

Afghanistan in areas controlled by the Kabul regime, and demanded that UN relief convoys not travel to cities held by the regime after passing through *mujahedin*-controlled areas.

Zones of Tranquility In order to qualify as a "zone of tranquility" for organized repatriation, Sadruddin said, "an area must have been peaceful for a certain amount of time, and local authorities must have facilitated the establishment of a UN presence."

He told the Yale audience, "It is not a matter of the UN 'creating' zones of tranquility, but rather of noting that they already exist and consolidating them through significant assistance." He said that "such zones should serve as poles of attraction for returning refugees and also as models to be emulated."

Citizens Commission Reports on Afghan

Refugees The Citizens Commission on Afghan Refugees, created in 1988 by the International Rescue Committee (IRC), in March sent its third mission to Pakistan to evaluate the prospects for repatriation.

The Commission confirmed that there is little prospect for large-scale return in the immediate future, and said that spontaneous returns have been "limited to specific sectors free from fighting or the threat of massive numbers of land mines." Some 100,000 refugees are reported to have returned spontaneously from Baluchistan Province, considered by most observers to be a less hospitable site for asylum than the Northwest Frontier Province, where most of the refugees are located. The Commission predicts that any eventual settlement "will tend to be diverse in nature, with local and regional interests emerging, in contrast to a highly centralized authority in Kabul."

Given that reality, the Commission essentially endorsed the plan of the UN Coordinator, saying, "recognizing that there are today areas in Afghanistan relatively free of conflict and of deadly land mines, we recommend that the repatriation and reconstruction effort be approached on a sector by sector basis, without waiting for or anticipating the establishment of a dominant central authority in Kabul."

Land Mines Present Formidable Obstacle to Return The Citizen's Commission reserves



Operation Salam demining project, near Keshkhi Refugee Village, NWFP. UNHCR/H.J. Davies

its strongest criticism for inefficiencies and delays in the deactivation of the millions of mines estimated to be in the path of returnees and in the fields they will need to restore in order to become self-sufficient again.

Saying that efforts to date had not met expectations, the Citizens Commission called for "a specific, sector by sector time frame for de-mining." The Commission said, "Refugees will not return to mine infested areas, nor should they."

IRC Executive Director Robert P. DeVecchi told *Refugee Reports*, "There will be no significant return to zones of tranquility until there is an evident, visible mine-clearing program." He said that mines must actually be cleared, and that the program, thus far, has been largely limited to teaching people to be aware of mines.

Although the mine awareness program has made Afghan refugees more knowledgeable about mines, it has also raised their level of fear, said DeVecchi.

The Citizens Commission warned that the

UN Coordinator's plan to return one million refugees in 1990 would be "overly ambitious" given the "objective conditions" that prevail. The Commission urged that mine clearance be stepped up. "Mines are clearly within the Coordinator's operational mandate," said the Commission, "and their elimination is the linchpin in the whole repatriation effort."

The faults in the mine-awareness and mine-clearing parts of the Operation Salam program are symptomatic of problems with the UN operation, which has yet to establish firmly its credibility with the Afghan refugees, according to nongovernmental organization sources in Pakistan. (See *Refugee Reports*, Vol. IX, No. 3 for other criticisms of the mine awareness program.)

Donor Contributions to UN Effort Lag The UN Coordinator traces the problems with Operation Salam to a lack of funds and the earmarking of funds that have been donated, so that the UN lacks flexibility to respond to a changing situation.

Saying that the funding was "totally inadequate" and that he was "severely constrained" by earmarked donations, Sadruddin announced, "Without the payment of additional or outstanding pledges and greater flexibility in the release of funds, we shall be left with a theoretical blueprint for action which cannot be translated into projects on the ground."

On paper, more than a billion dollars have been pledged to Operation Salam, but nearly \$700 million of that was "in kind" contributions, mostly from the Soviet Union, the vast majority of which has not been received. Japan's donation of \$90 million is earmarked specifically for repatriation, so remains frozen until the refugees actually begin to move.

U.S. assistance for Afghan refugees has been funneled primarily through bilateral channels. But the U.S. has donated \$16.7 million in in-kind food aid through the World Food Program and another \$2 million in in-kind contributions for U.S. army involvement in the de-mining program. A cash contribution of \$12.5 million was made to the UN Coordinator's Afghanistan Emergency Trust Fund last year, and another \$13.5 million has been pledged this year, according to State Department sources.

The Citizens Commission said, "We need to maintain and sustain our present level of humanitarian aid." It added, "We do not believe it could, or should, realistically be increased substantially, given budgetary limitations and demands from other parts of the world--the Horn of Africa, Southern Africa, Southeast Asia, Central America, Eastern Europe, etc."

World Interest in Afghanistan Seems to Ebb

The Citizens Commission uses the term "Donor Fatigue" to indicate the diminished interest in Afghan refugees. A variety of reasons are suggested for this, but one stands out: the conflict is seen less as a security and ideological threat posed by the Soviet Union and increasingly one of rival factions of little specific interest to those outside of Afghanistan itself. The Citizens Commission points out, "While the humanitarian needs of the refugees, and of Afghanistan itself, remain both urgent and compelling, the geopolitical aspects of the equation have decreased."

The Commission warns, "The stakes, how-

ever, are too high and the commitment too long and enduring to give in to 'donor fatigue,' or to walk away from the Afghan cause at this juncture."

CONGRESS VOTES FOR ADDITIONAL REFUGEE FUNDING THIS YEAR

Tucked into a bill to appropriate more than \$2.4 billion for the remainder of this fiscal year is \$100 million for refugee admissions and assistance.

The FY 90 supplemental appropriation passed the House by a 365-59 vote on April 4, and was expected to pass the Senate on April 25. The bills will have to be reconciled in conference, but both House and Senate versions already agree on those portions relating to refugees.

Soviet Jews Are Major Beneficiaries of New Refugee Funds The supplemental includes \$75 million for the State Department's Migration and Refugee Assistance account. That includes \$70 million requested by President Bush for refugees to be resettled in the United States.

The \$70 million will be devoted to processing and care and maintenance of refugees in Europe (\$38 million), transportation to the United States (\$14 million), and initial resettlement costs (\$18 million) for an increase in 27,000 refugee admissions over the 110,000 funded places previously authorized for admission to the United States. This represents the admission of 24,000 additional Soviets, 2,000 Amerasians, and 1,000 Africans.

The overall ceiling for Soviet refugee admissions now stands at 50,000, of which 10,000 are to be privately funded. As of now, Jewish voluntary agencies have been able to raise enough to fund 8,000 admissions. Ambassador Princeton Lyman, the director of the State Department's Bureau for Refugee Programs, testified before the Foreign Operations subcommittee on March 19 that much of the supplemental would be directed toward clearing the 40,000 Soviets in the Rome/Vienna pipeline. He estimated that the last Soviet emigres would be cleared out of Rome and Vienna and admitted to the United States by the end of May.

The supplemental appropriation included another \$5 million for resettlement of

Soviet, East European, and other refugees in Israel. This is in addition to the \$25 million already in the FY 90 budget for refugee resettlement in Israel.

The supplemental also includes \$25 million to replenish the Emergency Refugee and Migration Assistance Fund (ERMA). President Bush had requested no additional money for overseas refugee assistance this year. As a result of a concerted advocacy effort by private groups, as well as the House Hunger Committee, Congress saw the need to appropriate money for overseas refugee emergencies without an Administration request (see Refugee Reports, Vol. XI, No. 2).

The \$25 million replenishes a nearly equal amount from the ERMA account that was released on March 14, and announced in the April 16 Federal Register. UNHCR, whose capacity to assist refugees has been critically hampered by budget shortfalls, will receive \$12.45 million for programs in Africa (\$5.25 million for UNHCR programs in the Horn of Africa; \$5 million for programs in Malawi; \$1.2 million on behalf of Liberian refugees--the United States will contribute another \$200,000 to the League of Red Cross and Red Crescent Societies for Liberian refugees; and \$1 million for programs in Angola and Zaire). Another \$2 million will be donated toward refugees in the Horn of Africa through the International Committee of the Red Cross (ICRC). The ICRC is also slated to receive \$300,000 for programs in El Salvador and Panama. In support of the Comprehensive Plan of Action, \$10 million from the ERMA fund will be spent on behalf of refugees in Southeast Asia.

The supplemental appropriation for ERMA would bring the balance of that account back up to almost \$50 million.

DADE COUNTY CALLS FOR FEDERAL INVESTIGATION OF ALLEGED ABUSES AT INS KROME FACILITY

On March 9, Dade County (Florida) Commissioner Barbara M. Carey wrote to Attorney General Richard Thornburgh requesting "that a Federal Grand Jury inquiry be conducted of the overall treatment and the process itself of the [Immigration and Naturalization Service (INS)] Krome Detention Center." Dade county includes the Miami metropolitan area.

The request for an investigation arose

after a March 1 meeting of the County Commission's Immigration Advisory Committee at which commissioners were presented more than 70 affidavits from Krome detainees, former detainees, and by lawyers and other aid workers who regularly visit Krome. The April 11 Miami Herald said the affidavits "paint a chilling picture of the INS camp as a Gulag for refugees.... They tell stories of physical and sexual abuse; stories of humiliation and harassment."

Rep. Dante Fascell (D-Fla.) also wrote to Thornburgh supporting the call for a federal investigation of Krome. Fascell told Thornburgh, "While I strongly support the enforcement of our immigration laws, the documentation is most disturbing and would indicate that long-standing abuses at the center remain uncorrected." Fascell added, "With charges this serious, there is no choice but to investigate."

What the Detainees Say Among the abuses described by detainees and former detainees in the affidavits:

° Male detainee: "One time he [a guard] man-handled a man on the way to the clinic, knocked him down and hurt his arm so that he bled a lot."

° Male detainee: "Suddenly the guards dragged the men out of the room and took one of them and banged his head against the metal barrister."

° Female detainee: "The worst searches are after visits.... Some of them [guards] just pat you down, and some make you take off your outer clothes. But there are others who like to make you take everything off, and some that are even worse.... They treat us like animals. Not all of them, all the time, but the ones who don't can't stop the ones who do."

° Male detainee: "He is always telling us we are dogs and pigs and saying there is no food in Haiti and that is why we left."

° 15-year-old detainee minor: "At one point, when a delegation from outside came to visit Krome, they had the minors put on civilian clothes.... Some of the minors in Krome said they wanted to kill themselves.... I felt I was going crazy sometimes. People on the outside don't realize what's going on in Krome. Since no one knows, the immigration officers do whatever they want."

° Male detainee: "Maybe they will kill me in Haiti.... But this is worse. This is no

country for black people."

According to the Herald, INS District Director Richard Smith called the charges "serious and not dismissable" and forwarded the affidavits to the INS central office in Washington, D.C., requesting an investigation. Smith reportedly fired one guard who had been repeatedly mentioned in the affidavits as being particularly abusive, and moved other guards to the Miami airport or to positions in Krome with no direct contact with detainees.

"Haitians Seem to Be Treated Worse Than Any Other Group" The affidavits were compiled by attorneys at Miami's Haitian Refugee Center (HRC) and other immigration attorneys in Miami. Cheryl Little, staff attorney at the HRC, presented the affidavits to the county commissioners. Little told Refugee Reports, "HRC began collecting these affidavits in January, 1989...in an effort to detail the abuses alleged to have taken place and also out of concern that detainees...might be transferred or deported without having the opportunity to speak out."

Detainees of different nationalities have complained about abuses. According to the Herald, a Fort Lauderdale attorney who is president of the South Florida chapter of the American Immigration Lawyers Association said, "The guards poured buckets of ice water over my client, a Brazilian, when he was in the isolation room." The paper also cited the example of Jose Herrera, a Salvadoran former detainee who said he watched a Krome guard beat an Ecuadorian detainee until two ribs were broken "because the guy didn't sit right with him."

Most of the affidavits, however, are from Haitians. Krome, a facility for non-criminal aliens only, has a predominantly Haitian population. In February, 320 of the 477 detainees at Krome were Haitian. According to Little, "The Haitians seem to be treated worse than any other group, I think primarily because they are black." In December, Refugee Reports interviewed several Haitian detainees at Krome, as well as two former detainees now living in Miami (See Refugee Reports, Vol. XI, No.2). One of them said, "Not only Haitians are treated very badly. But the Haitians are treated more badly."

Krome Employee Backs Up Detainees' Charges

In an interview with the Herald, a Dade County teacher who has worked at Krome since 1983 said, "What goes on at Krome is more horrible than anyone can imagine. But not much gets out because people don't put much stock in what the families of detainees say. And the employees there are scared to lose their job." She described seeing a guard beat a detainee severely, breaking his arms and legs. But, she added, the INS officially called it an accident.

"Not all the guards at Krome are abusive," Little points out, "and certain of them seem to be good people who care about the detainees." "But," she added, "all it takes is a handful of corrupt employees."

Update

* Malaysia has pushed back boats carrying some 5,660 Vietnamese asylum seekers during the past eleven months, according to Refugee Reports staff writer Court Robinson, who is currently in Malaysia.

Robinson said that the proportion of boats turned away is approaching 90 percent. "Arrivals have become the exception rather than the rule," he said.

U.S. State Department spokeswoman Margaret Tutwiler said on April 17 that the United States had "vigorously protested the denial of first-asylum to Vietnamese."

Robinson will be reporting on the situation in Malaysia and Thailand in next month's Refugee Reports.

* More than 800 Ethiopian Jews were reportedly forcibly returned to Ethiopia in January by Sudanese authorities. The refugees were forced across the border at gunpoint, according to the former administrator of Safawa refugee camp in Sudan, Rev. Michael Evans, S.J., who had interviewed a number of the refugees when they first entered Sudan in June 1989.

Evans worked with the American Refugee Committee in eastern Sudan until he was expelled from the region in July 1989. In a letter to UN High Commissioner for Refugees Theovald Stoltenberg, Evans said that from the time the refugees arrived in Sudan, their treatment was "considerably different at the hands of COR and local Sudanese officials" than that of other refugees. "It is

reasonable and credible to believe that they experienced the holdup in registration, lack of food and shelter, and strong security precautions because they were Falasha [as Ethiopian Jews are sometimes known]--and that they were refouled for the same reason," Evans said.

° On March 22, the directors of the National Association of Evangelicals and World Relief wrote a letter to President Bush apprising him of the existence of some 900 evangelical Protestant families in the Soviet Union who had applied for Soviet exit visas to Israel prior to the change in U.S. processing of Soviet refugees that went into effect on October 1, 1989.

The October 1 policy change blocked exit to Vienna, and was intended to allow Soviets to apply for U.S. processing in Moscow without first surrendering their identification papers and jobs. However, these 6,000 people had already renounced their citizenship, surrendered their domestic passports, given up their homes, and terminated their jobs, according to World Relief. "Their lives are clearly at risk," said the letter.

° President Bush issued an executive order on April 11 barring deportation of all Chinese nationals from the United States until January 1, 1994, provided that they were in this country between the time of the Tiananmen Square Massacre, June 5, 1989, and the signing of the order on April 11, 1990.

The order further waives the two-year home country residence requirement for PRC exchange students until 1994. The order waives the requirement of a valid passport for the same time period and directs U.S. officials to facilitate travel and reentry of PRC nationals. It also allows those PRC nationals who were in lawful nonimmigrant status before June 5, 1989 to maintain their lawful status, and authorizes employment for PRC nationals during the period of protected status.

° The electrified fence that South Africa has constructed along its border with Mozambique was described as "diabolical and inhuman" by U.S. Coordinator for Refugee Affairs Ambassador Jewel S. Lafontant at a press conference in Maputo, Mozambique on March 30.

Lafontant said that South Africa had set up the electrified fence deliberately "to kill human beings" in order to keep out Mozambican refugees. "South Africa should turn the power off," she declared.

Lafontant's press conference capped her tour of refugees in southern Africa. She said that she delivered a letter to President Banda of Malawi from President Bush pledging \$5 million for refugee camps in Malawi, according to the April 1 Sunday Mail.

° Angolan refugees who recently repatriated to Angola from Zaire are facing critical food shortages. Beginning late 1989, more than 6,500 Angolan refugees voluntarily repatriated under a UNHCR-sponsored program.

The former refugees were flown from Zaire to their home areas in a remote border region of Angola. But due to the civil war in Angola, those areas are only accessible by air. UNHCR, because of its funding crisis, cannot afford to charter airplanes to fly food into the area on a regular basis. The agency has borrowed grain available locally from government and other sources, but not enough to meet all of the returnees' needs.

° Immigration and Naturalization Service (INS) Commissioner Gene McNary informed a House appropriations subcommittee on March 21 that the INS is requesting \$884.3 million for FY 91, a \$42 million increase over the current year. Since INS generates income through various fees for immigration-related services, McNary said that the total resources available to the agency in FY 91 would be in excess of \$1.1 billion.

The House Judiciary Committee is currently considering a FY 91 authorization bill for the Justice Department (H.R. 4315) that would include the full amount requested by the INS.

The INS would use most of the increase to boost its enforcement capacity by, among other things, adding 200 Border Patrol agents. McNary said, "The funding will support increases in the number of drug-tracking canine teams, sensors, helicopters, and passive physical devices to prevent alien and drug smugglers from driving across the border and bypassing established ports-of-entry."

The INS is requesting \$4.5 million to

build a 300-bed lockdown facility in the Krome Service Processing Center in Florida to accommodate criminal aliens. Congress has prohibited the INS from detaining criminal aliens in Krome until a secure-lockdown dormitory is constructed meeting standards set by Congress (see Recent Developments).

Generally, though, the budget requested by the INS would drop by \$4 million the amount spent last year for detention and deportation.

The INS also requested nearly \$1 million to enhance public awareness of the anti-discrimination provisions of the 1986 Immigration Reform and Control Act.

* The U.S. General Accounting Office (GAO) determined that the employer sanctions and verification provisions of the Immigration Reform and Control Act of 1986 (IRCA) have resulted in "widespread discrimination." An estimated 461,000 employers, or 10 percent of all those surveyed, reported national origin discrimination because of the law.

The GAO report said that it was "likely that the widespread pattern of discrimination...could be reduced if employers were provided with more education on the law's requirements and a simpler and more reliable verification system."

* On March 20, Canadian Minister of Employment and Immigration Barbara McDougall announced new guidelines for immigration officers to use to consider humanitarian and compassionate grounds for reviewing asylum claims.

The regulations resulted from a March 8 decision of the Federal Court of Canada, holding that the government's approach to asylum applicants in its backlog of more than 100,000 is overly restrictive and limits immigration officers' discretion.

The Canadian law provides for humanitarian and compassionate review of asylum seekers both before a determination of refugee status is made and prior to removal of those deemed not to have a credible basis for their refugee claims. As of March 9, 1,287 cases had been accepted on humanitarian grounds. In announcing the new guidelines, MacDougall said that Canada would not declare an amnesty for the refugee claimants in the backlog.

Feature

ASYLUM DECISIONS "POLITICAL", COURTS RULE

Several federal courts have recently ruled that asylum decisions are inherently political, and have deferred to the political judgments of the Board of Immigration Appeals (BIA), the highest administrative body within the Justice Department for appeal of asylum claims.

All of the recent cases discussed in this article, in which federal appeals courts have allowed the political judgments of the BIA to stand, involve denying the asylum claims of Salvadorans.

The first case, M.A. v. INS, involves the denial of asylum to a Salvadoran who fled his country in 1982 to evade conscription in the Salvadoran military (see Refugee Reports, Vol. IX, No. 11).

By a 6-5 vote, the full U.S. Court of Appeals for the Fourth Circuit on March 27 reversed an earlier Fourth Circuit panel decision and upheld the BIA's denial of a motion to reopen a deportation proceeding to consider an asylum claim of the Salvadoran, known as M.A.

M.A. (initials are used, at his lawyer's request, to preserve his anonymity) had requested a reopening of his deportation proceeding on the grounds that he had had ineffective counsel, because, among other things, his original lawyer had made no effort to explore or raise an asylum claim at his deportation hearing.

M.A. claimed that, if returned to El Salvador, he would be forced to associate with a military that commits internationally condemned acts, and cited atrocities committed by the Salvadoran army to support his position.

The BIA had rejected his motion to reopen his hearing in order to present his asylum claim for the first time, saying he had not shown that he would personally be required to commit acts of inhuman conduct in his military service. The Board also noted that there had been no official international condemnation of the Salvadoran military or government, a requirement it said was imposed by the UN Handbook on Procedures and Criteria for Determining Refugee

Status in the case of asylum claims by conscientious objectors.

The earlier panel of the Fourth Circuit had said that M.A. had presented sufficient evidence of Salvadoran military atrocities to show that it does, in fact, violate the Geneva Conventions. The panel had said that the BIA was wrong to wait for international bodies, such as the UN, to officially condemn El Salvador.

The panel had concluded that M.A. had "presented evidence from a wide variety of sources to show that the atrocities committed against the civilian population by the military are frequent and widespread."

That panel also held that the BIA was too harsh in requiring M.A. to prove that he would be compelled to commit atrocities, saying, "It is unlikely that such a standard could ever be met."

Federal Court Defers to "Political...

Decision" of BIA However, this decision was reversed by the full Fourth Circuit on March 27. The crux of the court's action rested on deferring to the political nature of the BIA's decision-making on asylum matters. "In reviewing the Board's denial of a motion to reopen deportation proceedings," said the majority, "we must be sensitive to the inherently political nature of the decision whether or not to deport."

The dissenting opinion attacked the majority on precisely this point. Writing for the five dissenters, Senior Circuit Judge Harrison L. Winter wrote, "It is precisely the politicization of the asylum process that troubles me, and suggests that heightened deference to the Board is unwarranted." The dissenting opinion cited ideological and geographical biases in BIA decisions, and said that such decisions called for greater, not less, judicial scrutiny.

The majority had said that the BIA had not abused its discretion in denying the motion to reopen. It said it could only reverse the BIA's denial if it was irrational, inexplicably departed from established policies, or represented invidious discrimination. Citing a 1986 Seventh Circuit precedent, the majority said, "The [BIA's] decision need only be reasoned, not convincing."

The dissenting opinion said that since the BIA was interpreting the statute--

whether M.A. had made a prima facie case of a well-founded fear of persecution--it need not be accorded the deference an administrative agency should be given in its exercise of discretion.

Beyond that, Judge Winter said deference should not be accorded when agency interpretations are inconsistent. The dissent pointed out that the BIA "interprets the well-founded fear standard inconsistently, and in violation of the mandate of the Refugee Act of 1980." Judge Winter cited both case and statistical discrepancies to buttress his finding of "an impermissible infusion of ideology into the asylum process."

Court Rejects Human Rights Reporting of Private Organizations in Asylum Context

Among the evidence M.A. had presented in support of his motion to reopen were reports on Salvadoran human rights by Amnesty International and Americas Watch. The majority called the use of these reports "problematic almost to the point of being non-justiciable." The courts said, "Although we do not wish to disparage the work of private investigative bodies in exposing inhumane practices, these organizations have their own agendas and concerns, and their condemnations are virtually omnipresent."

Judge Winter took exception to this point as well, saying, "Since the founding of the United Nations, nongovernmental organizations such as Amnesty International and Americas Watch have been full and active participants in the development of human rights law, and their writings have long been considered a valid source of international law." He said that by indicating private agency reports are "biased, standardless, and have little probative value," the majority had sent a "loud and clear" message to the BIA "that these reports are irrelevant."

The majority had said that the use of private human rights reports would require the courts "to make immigration decisions based on our own implicit approval or disapproval of U.S. foreign policy and the acts of other nations." It rejected such a role for itself, citing a law review article to the effect that "to accept the claim of someone to qualify for refugee status is publicly to accuse some other state of engaging in persecution." The majority said that federal courts lack the expertise and

the constitutional authority to assume that role. "Such a role for the courts would transform the political asylum process from a method of individual sanctuary left largely to the political branches [of government] into a vehicle for foreign policy debates in the courts."

Winter countered with the argument that "by allowing an asylum applicant to submit evidence of condemnation from private international organizations, a court does not indicate its approval of such opinions, but merely recognizes that a 'reasonable person' could fear persecution if the published reports were true." He went on to say, "Indeed, even a finding that the alien has a well-founded fear suggests only that one individual fears persecution, and not that the government in question is an international outlaw."

Back to Basics Despite the heated and lengthy (29 pages for the majority; 28 for the dissent) decision, neither side examined whether M.A. had ineffective counsel or not, the basis for his claim to consider his asylum request in deportation proceedings (although the earlier Fourth circuit panel decision had concluded that M.A. had been deprived of his right to apply for asylum because of ineffective counsel).

The editors of the immigration law weekly Interpreter Releases wrote, "The most distressing aspect of this decision is the way the underlying injustice--M.A.'s deprivation of the right to a hearing on his asylum claim because of ineffective assistance of counsel--is obscured by doctrinal and political currents. Doctrinal currents force the parties and judges into baffling angels-dancing-on-pins analyses of the standard of review. Political currents generate an overheated, incoherent treatment of topics better left for a decision on the merits. The fact remains: through no fault of his own, M.A. has never had an asylum hearing."

Other Federal Courts Say Interpretation of "Political Opinion" is "Political Question" for BIA to Decide Two other federal courts of appeal--the First and the Eleventh--also recently deferred to the political judgment of the BIA to interpret the meaning of "political opinion" in the asylum statute phrase of a "well-founded fear of persecu-

tion on account of...political opinion." The three cases also involved Salvadorans.

In Perlora-Escobar v. Executive Office of Immigration Review, the Eleventh Circuit said that what constitutes a political opinion for purposes of asylum is "a political question which the courts are not especially qualified to decide." Therefore, the court deferred to the BIA's judgment that "harm and threats that may incidentally result from behavior meant to achieve a political objective, be it the overthrow of the existing government or, alternatively, the defense of the government against armed insurrection, is not persecution on account of political opinion."

The starting point for the BIA's determination of whether a government's punishment of its opponents is persecution rests on the BIA's view of the legitimacy of the government. And, said the Eleventh Circuit, "The BIA found nothing in the record to indicate that the government of El Salvador is anything other than a duly established government. As such it has the internationally recognized right to defend itself against attack and rebellion.... The government will not harm [Escobar] because of political opinion, but rather because he is or was an opponent of the government."

This trend has continued in two similar cases arising in the First Circuit, Umanzor-Alvarado v. INS and Novoa-Umania v. INS, in which that court also recently sided with the BIA in denying asylum to other Salvadoran asylum seekers who claimed a fear of persecution based on political neutrality in the conflict in El Salvador.

BIA Grants Asylum to Afghan, Citing "Existing Political Situation" Coincidentally, a recently published decision by the Board of Immigration Appeals underscores the political character of its decision-making in a grant of asylum, resting in large part on the BIA's political evaluation about the legitimacy of the government of Afghanistan. In this case, Matter of Izatula, the BIA said that the Afghan government has no legitimate authority to impose any punishments.

The Board overturned an immigration judge's denial of asylum to Izatulah, who had claimed a well-founded fear of persecution based on his refusal to join the military and because he had supplied clothes,

groceries, and other items to the *mujahedin* guerrillas from his store.

Looking at "the existing political situation in Afghanistan," the BIA concluded that it is "different from countries where citizens have an opportunity to seek change in the political structure of the government via peaceful processes."

The Board concluded, "Therefore, because we find that the applicant has established that he is at risk of being punished for his political activities in Afghanistan, and because there is no basis in the record to conclude that any punishment imposed by the Afghan Government would be a legitimate exercise of sovereign authority, we conclude the applicant has established a well-founded fear of persecution in Afghanistan."

Board member Fred Vacca, who concurred

with the majority that Izatullah had a well-founded fear of persecution, nevertheless dissented from the way the majority arrived at that decision. He said, "The majority wades in dangerous waters when it presumes to make judgments as to the legitimacy of sovereign nations by scrutinizing their political systems."

He said that focusing on the political system of a country "in order to determine whether it engages in prosecution or persecution is erroneous and serves no useful purpose."

Vacca said, "To hold that some governments may create laws affecting crimes, adjudicate criminal cases, and impose punishments upon offending citizens and other governments may not depending on the nature of their political systems is patently absurd."

As a *Refugee Reports* subscriber, you should by now have received your copy of the *World Refugee Survey--1989 in Review*. If not, please contact us so that we can get it to you right away.

This color poster based on the *Survey* cover is also available for \$5.00 (including postage and handling.) Two or more are \$3.00 each. Please send check or money order to:

The U.S. Committee for Refugees
1025 Vermont Avenue, NW
Suite 920
Washington, DC 20005

We do not have the moral right to underestimate refugee pain.



U.S. COMMITTEE FOR REFUGEES

The U.S. Committee for Refugees is a program of the American Council for International Service, a private, nonprofit organization, 1025 Vermont Avenue, NW, Suite 920, Washington, DC 20005 (202) 544-3507

Photo: Burmese students cross the Mae River into Thailand. Since Burma's army offensives in late 1985, more than 40,000 Burmese refugees are in Thailand, where aid and asylum are limited. Photo Credit: Reuters

PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY STATE FY 1990

STATE	FY 1990 PROPOSED ALLOCATION	STATE	FY 1990 PROPOSED ALLOCATION
California.....	\$10,982,566	Missouri.....	\$ 51,830
Colorado.....	162,860	New Jersey.....	263,703
Florida.....	16,957,632 ^a	New York.....	952,259
Hawaii.....	165,523	Oregon.....	406,819
Illinois.....	624,541	Pennsylvania.....	355,516
Kansas.....	133,363	Rhode Island.....	188,009
Louisiana.....	80,398	Texas.....	297,040
Maryland.....	130,176	Utah.....	111,082
Massachusetts.....	648,987	Virginia.....	288,825
Minnesota.....	711,506	Washington.....	734,165
		TOTAL	\$34,246,800

^aThe allocation for Florida includes \$14,000,000 for Jackson Memorial Hospital (Miami) and the Dade County (Miami) public schools.

* Source: Office of Refugee Resettlement. For a complete text of the proposed rule regarding targeted assistance grants, see the Federal Register, Vol. 55, No. 72, April 13, 1990, pp. 13973-79.

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MALAYSIA PUSHES OFF 6,500 VIETNAMESE BOAT PEOPLE; LIVES THREATENED, INTERNATIONAL ACCORD IN JEOPARDY

[This article, written by Refugee Reports staff writer Court Robinson, is based on a site visit to Malaysia in April. Robinson, representing the U.S. Committee for Refugees, and Lionel Rosenblatt, executive director of Refugees International, visited Pulau Bidong and Sungei Besi camps, and interviewed dozens of Vietnamese boat people, including several pushback victims, as well as officials with the UN High Commissioner for Refugees, the Malaysian government, and the U.S. embassy in Kuala Lumpur.]

Since May 1989, with little warning or fanfare, Malaysian authorities have been pushing boatloads of Vietnamese asylum seekers back out to sea. A total of 6,577 people subsequently have turned up in Indonesia. Six deaths are known to have resulted from pushback incidents, and many more are feared.

The crisis has escalated in 1990. Since January, an increasingly larger percentage of boat arrivals in Malaysia have been towed back out to sea. In March, only three boats, totalling 122 people, were granted asylum, as 90 percent of the new arrivals were pushed off.

The responses of Malaysian government officials range from denial to rationalization to angry counter-attack. The government's basic position, as articulated by several officials, seems to be: Malaysia has granted temporary asylum to more than 250,000 Vietnamese refugees in the course of 15 years, but the problem has become burdensome, as well as a political liability, and if the United States really wants to help the Vietnamese, it should either take them off Malaysia's hands or agree to the repatriation of the screened-out. Until then, pushbacks will continue.

The countervailing view held by, among others, UNHCR, the U.S. government, and a number of private advocacy groups could be stated as follows: While Malaysian frustrations with the long-running Vietnamese exodus are understandable, nevertheless Malaysia ratified the Comprehensive Plan of Action (CPA) in Geneva last June, which commits asylum countries to provide temporary refuge to all asylum seekers.

IN THIS ISSUE:

This month, Refugee Reports focuses on the pushback of Vietnamese boat people by Malaysian authorities. Court Robinson looks at the history of pushbacks by Malaysia, the escalation of pushbacks in recent months, the international war of words that pushoffs have engendered, and the threat to first asylum in Southeast Asia.....1

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Pushbacks, being fundamentally inhumane and in violation of the CPA, should be halted immediately and unequivocally.

Between these polar viewpoints lies a sea of contending positions and propositions on screening, involuntary repatriation, holding centers, resettlement, clandestine departure, and orderly departure from Vietnam.

Meanwhile, the countries of asylum in Southeast Asia have just issued their clearest warning ever that, unless there is consensus very soon on a solution for the screened out--either involuntary return or transfer to a holding center, the commitment to temporary refuge will be abandoned regionwide.

Pushbacks Have a Precedent Shortly after Saigon fell to the North Vietnamese in April 1975, a small but steady trickle of boat people began to depart the newly socialist south. UNHCR statistics show that by the end of 1977, about 7,000 Vietnamese had arrived in Malaysia.

In 1978, however, the flow expanded dramatically, as the new government in Vietnam began to systematically expel its unwanted ethnic Chinese population. In that year alone, more than 88,000 boat people arrived in neighboring Southeast Asian countries. By far the largest number, 63,000 in all, came ashore in Malaysia.

In November 1978, as a signal of its mounting displeasure with the refugee influx, Malaysian authorities refused to allow 2,500 Sino-Vietnamese to disembark from the rusty freighter, Hai Hong.

When a border war broke out between China and Vietnam in February 1979, the refugee flows grew still larger, with more than 200,000 Vietnamese fleeing in 1979. Official figures show 52,000 boat arrivals in Malaysia that year, but that tells only half the story.

In mid-June 1979, according to Malaysian news accounts, government officials declared that they were going to ship the 70,000 Vietnamese living on the squalid and horribly overcrowded island camp of Pulau Bidong back out to international waters, and moreover would shoot at any more trying to land.

In fact, international refugee officials assert, Malaysia had started pushing boats back as early as February 1979. By June 19, Minister of Interior Tan Sri Ghazali

told the New Straits Times, Malaysia had pushed back 40,529 boat people.

A Bangkok Post article dated June 23, 1979 reported that "Malaysian military forces forced back two refugee vessels crammed with up to 2,000 refugees. Malaysian soldiers fired M16 rifles into the air and water around a 25-foot boat twice...to keep it from landing."

An unknown number of boat people drowned or died from exposure, starvation, or pirate attack before Malaysia agreed to halt pushbacks in July 1979. One U.S. government estimate put the death toll at "perhaps several thousand refugees."

Round Two of Pushbacks Began Last May For exactly a decade since the 1979 pushbacks, Malaysia maintained one of the more generous records in the region, granting temporary asylum to more than 253,000 Vietnamese boat people, as well as offering permanent resettlement to 2,500 Burmese Muslims and 7,000 Cambodian Muslims.

For seven years, boat arrivals declined along with refugee camp populations, as departures for resettlement consistently outpaced the new arrivals. In September 1987, Vietnamese refugees in Malaysia totalled only 7,200, the lowest figure in at least ten years.

But in October 1987, more than 1,500 boat people arrived in Malaysia, the largest monthly total in many years. As the trend persisted into 1988 and early 1989, Malaysia's patience, once again, began to wear thin.

On March 14, 1989, Malaysia issued a statement in conjunction with the other members of the Association of Southeast Asian Nations (ASEAN) requiring all Vietnamese arrivals after that date to pass a refugee screening interview before they would be allowed to seek resettlement in another country.

Intended as a deterrent, the regional cut-off date instead inspired what a UNHCR official called a "last-chance mentality," and Vietnamese boat outflows surged higher. From April to June, more than 37,000 Vietnamese reached regional asylum countries; of these, 6,200 came to Malaysia.

Although it was not reported in the Western press, Malaysian policy on Vietnamese boat arrivals had shifted more radically than the ASEAN statement suggested.



In 1978, more than 63,000 Vietnamese boat people came ashore in Malaysia. In early 1979, Malaysia pushed 40,500 back to sea, where several thousand perished. UNHCR

On March 18, Deputy Prime Minister Abdul Ghafar Baba told the New Straits Times that all Vietnamese boat people were considered illegal immigrants and would be turned away.

"The government's stand is that Vietnamese refugees who arrive here from March 14 are considered illegal immigrants. As such, we will deport them." Asked to elaborate, Ghafar said that "on humanitarian grounds" the navy and marine police would allow Vietnamese boats to land and reprovise before towing them back to sea.

Despite the government's rhetoric, refugee boats were allowed to land in March and April. On May 4, the field director of a private refugee agency in Malaysia sent a cable to his home office in New York, saying that "the status quo--no pushoffs, continued first asylum, access to camp population, facilities, and service--remains intact."

Some time around May 25, however, according to UNHCR officials, Malaysian coastal authorities began to tow some Vietnamese

boats back out to sea. Press reports indicated that by July 7, more than 900 Vietnamese asylum seekers in Indonesia reported they had been pushed off from Malaysia.

Government officials initially were quick to deny that pushbacks were state policy. "As far as the Foreign Ministry is concerned, there is no such policy," Foreign Minister Abu Hassan Omar told the Far Eastern Economic Review.

By mid-August, pushback survivors in Indonesia numbered more than 1,200. Figures provided by the U.S. refugee program in Malaysia indicate that from May to August, about 30 percent of Vietnamese boats attempting to arrive in Malaysia were towed back to sea.

Western diplomats in Kuala Lumpur told the Washington Post in August that one man drowned when his boat capsized while being towed back out to international waters.

Five Deaths Result From Pushback in

October On October 23, 1989, the UNHCR representative in Singapore issued a press release saying, "Sixty-two Vietnamese boat people arrived in Singapore yesterday, after 52 days at sea. Six persons died on the journey, three of them after the boat was reportedly towed away from Malaysian waters."

A group of 68 people left Cuu Long in southwest Vietnam on September 1, according to the UNHCR statement. Three days out, their engine broke down and could not be repaired. By the time the boat encountered a Malaysian vessel on October 15, one man was dead from dehydration and starvation and two more were missing, having set out earlier in a small sampan to look for land.

The Malaysians reprovisioned the Vietnamese boat and promised to tow them to shore, but instead towed them back to sea for 19 hours.

"The tow rope was cut without warning," the release said, "and the boat set adrift. Two more people, a man and a woman, died of dehydration and starvation. On October 20...the group was rescued by the Anezina [a Greek-owned vessel] about 75 miles off the coast of Borneo... One more woman died, leaving two young children.

"The group disembarked from the Anezina on October 22. Many could not walk unassisted, and twelve people were brought immediately to Singapore General Hospital, where one woman pregnant and in her thirties, remains in critical condition." Two days later, the woman, and her unborn baby, died.

Shortly after this incident was reported, Prime Minister Mahathir Mohamad virtually acknowledged that pushbacks were occurring, although he told the British Broadcasting Corporation (BBC) that this represented only a "slight shift" in Malaysian policy.

"All we are doing is we are preventing foreign vessels from entering our waters," Mahathir said. "I'll admit that in the past because of the assurances that these people will be resettled, we have allowed them to come in as easily as possible. But now we find that people are not giving that assurance and our own people are beginning to get agitated... There is a limit to the things we can do."

On October 26, the UNHCR representative

in Malaysia, Eric Morris, issued a statement accusing Malaysia of violating its commitments under the Comprehensive Plan of Action (CPA) to provide temporary refuge to all asylum seekers.

In June 1989, Malaysia chaired an international conference in Geneva, at which more than 70 nations endorsed an agreement on Vietnamese asylum seekers, which included commitments by participants to discourage clandestine departures from Vietnam while expanding regular departure programs; provide temporary refuge for all asylum seekers; establish consistent, regionwide refugee screening procedures; resettle "long-stayers" and newly screened-in refugees; and provide for the repatriation--voluntary or otherwise acceptable under international practices--of the screened-out.

"It sets an extremely unfortunate precedent when an agreement is entered into one moment and repudiated at the next moment," Morris said in the UNHCR statement. "Malaysia was elected to the presidency of the international conference. International recognition must surely entail a commitment to fulfill international responsibilities."

The Crisis Escalates From September to December 1989, pushbacks continued at a rate of about 30 percent of all arrivals. By the end of the year, more than 3,000 pushback victims had arrived in Indonesia, while about 7,100 Vietnamese arrivals had been allowed to stay in Malaysia since May.

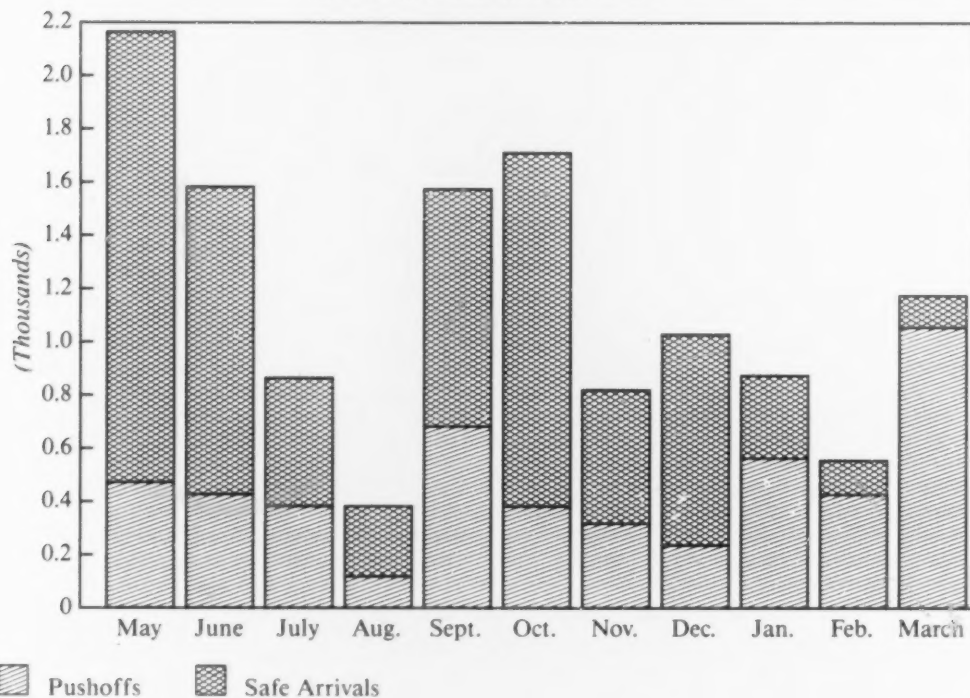
But in January 1990, only 309 Vietnamese arrivals were counted in Malaysia, the smallest number in almost three years. Arrivals in Indonesia, meanwhile, jumped above 1,000, an uncharacteristically large number, especially for January. Malaysian navy and marine police, as it turned out, had pushed back more than 65 percent of all would-be asylum seekers.

In February, 77 percent of all Vietnamese reaching Malaysia were pushed back, and in March, 90 percent of all arrivals were towed back out to sea. Only three boats, totalling 122 people, were allowed to remain in Malaysia in March. Refugee program sources told the U.S. Committee for Refugees (USCR) that those boats probably would have been pushed off as well, if they had not arrived in very public locations or in view of international officials.

Pulau Bidong, an island camp off the

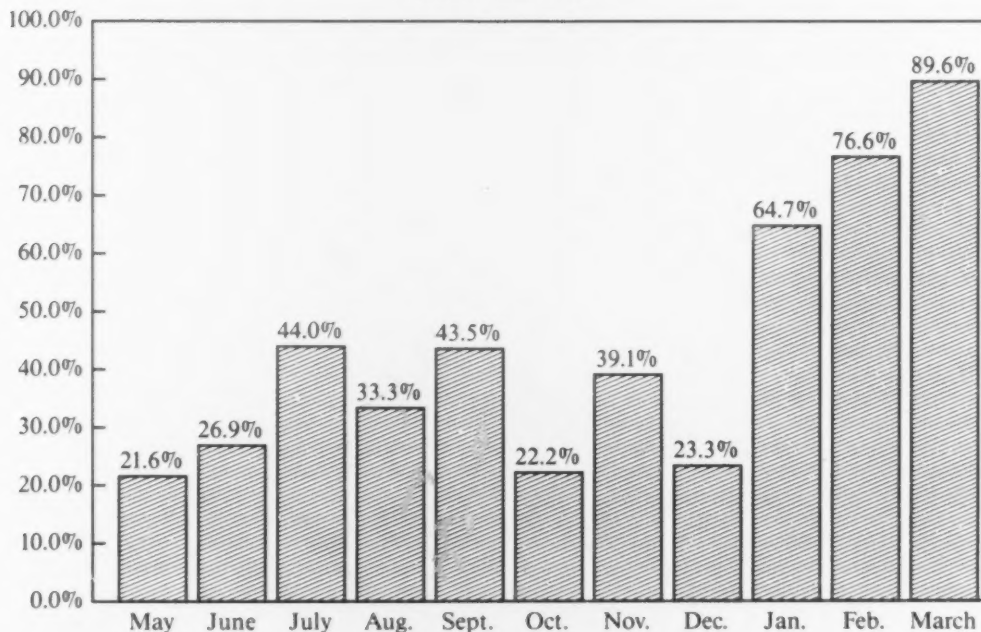
MALAYSIA: SAFE ARRIVALS VS. PUSHOFFS

PERSONS, FROM MAY 1989



PUSHOFFS AS % OF TOTAL ARRIVALS

FROM MAY 1989



Source: U.S. Refugee Program, Malaysia

east coast state of Trengganu and the main facility for Vietnamese asylum seekers since it was established in August 1978, has been blockaded since February, these sources told USCR. "We always have had Marine police boats patrolling Pulau Bidong," one source said. "But there are more police boats now around the island, and one boat sits at the jetty. Navy boats and even helicopters also have been seen cruising the area. Since the blockade was established, seven boats have attempted to arrive at Pulau Bidong. Five made it, but two were towed away."

An official with the Trengganu state office of Task Force VII, the Malaysian government agency responsible for refugee programs at the national and state levels, told USCR, in response to a question on pushbacks and the blockade, "I do not know if that is true. As far as I am concerned, we receive them. I told the camp commander [in Pulau Bidong] to receive these boats. Within 200 meters of the island, that is my territory. The navy and marine police take care of the sea. That is not my responsibility."

"I Cannot be a Hero Here" Of the 18,750 Vietnamese boat people in Malaysia, just over 13,000 are on Pulau Bidong. All of them arrived after the March 14 cut-off date and must undergo screening. Although the Bidong camp population is well below the record high of 38,000 in 1978, overcrowding is again a serious problem. It is the policy of the Trengganu state government that no new facilities be built on the island as "that would invite more Vietnamese to come," said the Task Force VII official.

The double-story wooden longhouses originally designed to house between 70 and 80 people now hold more than twice that number. At least ten of the buildings are in imminent danger of collapse.

Despite the estimated \$4 million annually that the camp contributes to the local economy, Pulau Bidong and the Vietnamese refugees have long been an unpopular issue with local politicians, and a source of tension between Trengganu state and Mahathir's ruling party, United Malays National Organization (UMNO).

"When you talk about refugees, the state government is very uncomfortable," the Task Force VII official told USCR. "We cannot control the opposition to this issue. The

fishermen have lost 10 million Ringits [about \$3.7 million] in the last 15 years, because they cannot go near the island. When I go to see my mentri besar [chief minister], all he asks me is, 'Berapa ramai, how many of them now?' When you talk about refugees in Trengganu, I cannot be a hero here."

War of Words Heats Up On April 12, Prime Minister Mahathir refuted foreign news reports that pushbacks were taking place. "If you do not believe me," he said, "you can go to Pulau Bidong and see for yourself the large number of refugees staying there."

Mahathir also denied receiving any official protests from UNHCR, which prompted a reply the next day from the UNHCR office in Kuala Lumpur stating that "UNHCR has been engaged in a constant dialogue with the government of Malaysia on all aspects of the Vietnamese boat people issue... It is our hope that the governments will continue to adhere strictly to the CPA and refrain from precipitous measures, particularly relating to first asylum, for failure to do so would be detrimental to all concerned parties, not least to the human beings whose plight it was intended to address."

Three days later, the State Department issued a much sharper rebuke of the pushback policy. "The United States has vigorously protested the denial of first asylum to Vietnamese at all appropriate levels of the Malaysian government," said spokeswoman Margaret Tutwiler at an April 16 press briefing. "The exact number of Vietnamese turned away from Malaysia will never be known," she said, but at least four people "have perished as a result of Malaysia's actions."

The Malaysian ambassador in Washington, Albert Talalla, responded by saying, "I am not in a position to comment on allegations of 'towing away' of boat people. But I consider Mrs. Tutwiler's comments as unhelpful to the process of reaching a comprehensive settlement of the Vietnamese refugee problem."

On April 19, Deputy Prime Minister Abdul Ghafar Baba reiterated Malaysia's commitments to the CPA and to first asylum. "Actually, the boat people do not want to stay in Malaysia," he said. "So they make a short stop in our waters to seek assistance such as food and medicine, which we help

them with.... If they ask us to repair the engines of their boats, we help them. They leave of their own choice."

"That simply is not true," said Lionel Rosenblatt, executive director of Refugees International, who visited Malaysia with USCR. "Based on interviews with boat people on Pulau Bidong and reports from Indonesia, we know that boats are not necessarily re-provisioned or repaired. Boats laden with men, women, and children are towed out to sea at high speed, which is extremely alarming and dangerous, and left to fend for themselves. Compasses and maps have been confiscated, and intentionally misleading directions given by Malaysian authorities. And virtually all of the asylum seekers have pleaded desperately not to be put back to sea."

One pushback victim interviewed on Pulau Bidong told USCR that his group of 51 asylum seekers had arrived in Sarawak in east Malaysia on June 25, 1989. Malaysian marine police told them they would be transferred to Pulau Bidong. Instead, they were towed out to sea for 12 hours, their compass and sea charts were confiscated, and they were pointed toward an island and told it was Pulau Bidong.

In fact, Pulau Bidong was still far away. The Vietnamese were attacked and robbed by local fishermen. They made their way back to Malaysia, where they were detained for two months in a deserted area.

On September 21, the group was put on what one called "a very old Vietnamese escape boat" and again towed back out to sea. "But the boat was in bad condition, leaking a lot," one man told USCR. "We were very frightened and begged for help, and told them to stop. Finally, they brought us back to land."

Through two helpful Malaysians, the group sent out letters to the Malaysian Red Crescent Society (MRCS), foreign embassies in Kuala Lumpur, and relatives in the United States. Finally, MRCS officials arrived in Sarawak and told the Vietnamese they had been allowed to stay. On November 4, more than four months after they left Vietnam, the asylum seekers reached Pulau Bidong.

First Asylum is on the Line in Southeast Asia Since the CPA was endorsed last June, U.S. policy has been opposed to involuntary

repatriation to Vietnam, although at a CPA steering committee meeting in January, the U.S. delegation offered a compromise of a one-year moratorium on involuntary return of the screened-out in order to achieve international consensus on the issue.

The other CPA participants, however, rejected the one-year period, and the United States, in turn, rejected any shorter intervals. The other steering committee members had called for a six-month moratorium, except Vietnam, which had proposed nine months.

Failure to reach consensus on the involuntary return of the screened-out, in the view of Malaysia and other first asylum countries, constitutes what they have called "selective implementation" of the CPA, and absolves them of the responsibility to honor their own commitments.

At a CPA meeting in Manila on May 17, 1990 the countries of temporary refuge in Southeast Asia—including Malaysia, Thailand, Indonesia, Singapore, Philippines, and Hong Kong—issued a statement saying that, "The viability of the CPA...has been undermined by selective implementation of its provisions. While countries of temporary refuge have been urged to continue to provide first asylum, crucial elements of the CPA have either not been given due focus or totally ignored."

The statement, which one representative said was "mostly directed at the U.S. and Vietnam," called on Vietnam to take more effective measures to deter clandestine departures and promote the Orderly Departure Program, and set a date of July 1, 1990, for implementing involuntary return of screened-out applicants for refugee status.

"There is an obligation on any country which opposes the repatriation of non-refugees who do not volunteer," the statement continued, "to offer an effective intermediate solution, such as the setting up and financing on its own territory of a regional holding center for all non-refugees."

Failure to agree on involuntary repatriation of the screened-out, or any intermediate solutions, according to the statement, gives the countries of asylum "the right to take such unilateral action as they deem necessary to safeguard their national interests, including the abandonment of temporary refuge."

The British government endorsed the

Asian statement and released a letter from Francis Maude, minister of state of foreign and commonwealth affairs, to U.S. Deputy Secretary of State Lawrence Eagleburger, asking the United States to take the 9,000 screened-out Vietnamese in Hong Kong and house them in a special camp, possibly on Guam.

A State Department spokesperson rejected the idea of a holding center on Guam, and reiterated U.S. opposition to involuntary repatriation. "We believe a holding center for screened-out Vietnamese on U.S. territory would create a powerful magnet effect," the spokesperson said, "and would thereby undermine a major aspect of the CPA, which is to encourage the screened-out, after a reasonable time, to return to their country of origin."

The United States is prepared "in principle," said the State Department official, "to consider a regional holding center" and noted that UNHCR "has been exploring possible locations in the region."

But will any country in the region be willing to provide such a holding center and, if so, would the United States agree to foot the bill? If not, will the U.S. government compromise on the issue of involuntary return in order to preserve first asylum for Vietnamese boat people? And, perhaps most importantly, will any of these questions be answered in time to avoid a total breakdown of the CPA?

"There are only three options facing us," Rosenblatt said, "and we must choose quickly. One is the holding center for screened-out. The second is mandatory repatriation with appropriate safeguards. The third option is chaos and tragedy, which is clearly already waiting in the wings."

Update

° Some 42 Haitians deported from the United States in May were arrested upon their arrival at the Port-au-Prince airport and detained without charge in Haiti's National Penitentiary. All but one of the detainees has since been ordered released by a Haitian judge.

On May 7, 27 Haitians were deported from the Immigration and Naturalization Service's (INS) Krome facility in Florida. The other

15 were deported on May 12 from Texas.

Judge Andre Normil ordered the release of the detainees, except for one who had faced criminal charges in the United States. A U.S. embassy spokesperson had told the Associated Press that the detainees were being held as part of an investigation of false documents and organized alien smuggling.

° A U.S. district court in Florida has ordered the State Department to release the names and addresses of Haitian nationals returned to Haiti, pursuant to a Freedom of Information Act (FOIA) request. The State Department had held that release of the names would have been an invasion of their privacy. Senior Court Judge David Dyer ruled, however, that "the public has a legitimate interest in the safe relocation of returned Haitians." The State Department has appealed Judge Dyer's decision, saying that national security would be violated if the names are disclosed. Oral arguments are scheduled for May 24.

° Three "whistle blowers" who had worked in INS's Krome facility in Florida and had reported mistreatment of detainees there have recently been dismissed.

One of the three, Janine Todaro, a teacher who had worked at the facility for six years, was fired in May. Her photograph had appeared on the front page of the Miami Herald on April 11 in a story alleging physical and mental abuse of detainees (see Refugee Reports, Vol. XI, No. 4). In that story, she told of a former guard who beat a detainee so severely that he broke his arms and legs, leaving him looking "like a ragdoll on the floor." She was quoted saying, "What goes on at Krome is more horrible than anyone on the outside can imagine." After her dismissal, Todaro told the New York Times on May 16, "The message this sends to others working at Krome is: Don't complain, because they'll get rid of you." A spokesman for Krome told the Times that Todaro was dismissed due to "a lack of security guards to work on the weekends when she was teaching."

° A suit was filed in a U.S. district court in southern Texas on April 16 on behalf of a detainee at the INS's Port Isabel Service Processing Center alleging unnecessary, unreasonable, and excessive

use of force and medical neglect.

The plaintiff, a citizen of the Dominican Republic, alleges that INS officers in full riot gear, including helmets and clubs, entered the barracks on or about the evening of March 5, and began roughly handling and handcuffing detainees, despite an absence of any disturbance prior to their arrival. He claims to have said, "Why are you doing this in such a manner? We are human beings," at which point he alleges that the INS officers "pounced" on him. The plaintiff claims that he was handcuffed, manhandled, and thrown against a door, causing unconsciousness and cuts on his arms, face, legs, and feet. The suit says that he was denied medical attention until the following morning.

° Canadian Minister for Employment and Immigration Barbara McDougall said on May 7 that tranquilizing drugs are used for people resisting deportation. "This has gone on for years," she said. "This is not new." Nevertheless, the revelation caused quite a stir in the Canadian press, with front-page coverage of the story and heated reactions from medical and legal figures.

Dr. Philip Berger, a physician who works with Amnesty International and the Canadian Center for the Prevention of Torture, told the Toronto Globe and Mail, "If doctors are doing it, it's unethical; and if immigration officials are doing it, it's illegal."

° The UN special coordinator for emergency relief in Mozambique, Peter Son Kin, warned recently that the shortfall in international assistance to Mozambique could lead to "widespread starvation." At an April 26 meeting at the UN, the Mozambican government appealed for \$136 million in emergency aid. The amount pledged, however, was \$30 million less than that. According to Son Kin, \$15 million is needed to airlift food to people in isolated districts who could face famine and death later this year if help does not reach them.

° The State Department has supported the asylum claim of a Chinese couple who claimed asylum based on China's one-family, one-child policy. The case tests President Bush's directive that forced abortion should be considered as grounds for asylum (see Refugee Reports, Vol. X, No. 12).

Recent Developments

ADMINISTRATION SPELLS OUT FY 91 REFUGEE BUDGET REQUEST: 110,000 FUNDED ADMISSIONS

The closing of the Rome-Vienna pipeline for Soviet refugee processing will bring a savings of about \$40 million, which, State Department officials told a Senate hearing on May 7, would be shifted to the overseas refugee assistance program.

Saying that the last of the Soviet refugees would be processed out of Rome at the end of May, Ambassador Jewel S. Lafontant, U.S. Coordinator for Refugee Affairs, said that Soviet refugee processing has now shifted to the U.S. embassy in Moscow (see Refugee Reports, Vol. X, No. 9). Lafontant said that more than 500,000 applications for the U.S. refugee program have been distributed in the Soviet Union since October 1, 1989, when the new policy went into effect, and that 200,000 of those applications are now in some stage of processing.

Of the total of 110,000 funded refugee admissions places reflected in the FY 91 budget, some 40,000 will be for Soviet refugees. Ambassador Princeton N. Lyman, the director of the State Department's Bureau for Refugee Programs, said that if special immigrant legislation proposed by the Administration is enacted, "the total number of Soviets immigrating to the U.S. in FY 91 could exceed the FY 90 number."

Regional Breakdown of Projected Refugee Admissions

In addition to the 40,000 refugees from the Soviet Union, the FY 91 budget allows for 5,500 from Eastern Europe; 6,000 from the Near East and South Asia; 3,500 from the Western Hemisphere; and 3,000 from Africa (see chart, p. 16).

A total of 52,000 would be admitted from East Asia, of whom 23,000 would come from refugee camps in the region and 14,000 directly from Vietnam. The remaining 15,000 would be Amerasian immigrants and their relatives. "Our ultimate goal," said Lafontant, "is to admit all Amerasian children and their family members who wish to come to the United States."

Lafontant said that the 110,000 admissions places suggested by the budget request

do not include additional refugees whose admission could be privately funded. She said that the Cuban, Jewish, Vietnamese, and Zoroastrian communities have, thus far, taken advantage of the opportunity to privately fund refugee admissions, and said, "We would welcome the opportunity to consider with the private sector what would be possible again in FY 91."

Savings Shift to Overseas Assistance

Lyman said that the closing of the Rome-Vienna pipeline would enable the State Department to reduce the refugee admissions budget by \$46.7 million. In response to a question on whether those savings would be shifted to overseas refugee assistance, Lyman told Sen. Patrick J. Leahy (D-Vt.), chairman of the Senate Appropriations Foreign Operations Subcommittee, that the Department "will shift that to assistance," which will be increased by \$46.5 million.

There remained some ambiguity, however, about whether a conscious shift within the Migration and Refugee Assistance (MRA) account had occurred. Lafontant, in responding to the same question, said there would be "no shift in the budget submission."

The State Department's MRA budget request for FY 91 includes \$215.2 million for overseas refugee assistance, while the FY 90 MRA budget for assistance is \$168.7 million.

The increase in the FY 91 budget for refugee assistance would not be as high as \$46.5 million, Lyman suggested, if funds

drawn from the Emergency Refugee and Migration Assistance (ERMA) account are included in FY 90 overseas assistance figures. Of the \$50 million in the ERMA account for FY 90, the State Department thus far has obligated \$31.9 million, Lyman said. Since then, the Administration has drawn an additional \$7 million from the ERMA account for the UN Relief and Works Agency (UNRWA) for Palestine Refugees in the Near East.

Counting ERMA expenditures so far in FY 90, the actual increase in the FY 91 assistance request would be a more modest \$7.6 million. However, additional ERMA funds could be spent later in FY 90 (or in FY 91), making a definitive comparison impossible at this point.

Assistance Versus Resettlement Although saying he was "impressed" with the increased amount requested for assistance in FY 91, Leahy observed that "the amount we spend [on assistance] has fallen" over the past five years. Five years ago, he said, the United States contributed \$20 per refugee per year, but today, he said, the U.S. per-capita contribution had fallen to \$12.

Roger Winter, director of the U.S. Committee for Refugees, agreed. He quoted from an April 4 State Department cable saying that the cost of resettling refugees in the United States "is to a large extent a trade-off with U.S. assistance to 15 million [refugees] in place worldwide."

"My problem," said Winter, "is with what the State Department has called a 'trade off,' a word I had hoped never to see from our government in the refugee context."

Although the FY 91 budget reflects a small shift toward the assistance side, Winter said that the trend for several years has been in the other direction. "We suggest," said Winter, "that U.S. support for refugee assistance has been dropping like a rock through the 80s."

CORRECTION NOTICE

The April 27, 1990 issue (Vol. XI, No. 4) said that the President's \$70 million supplemental appropriation request would be devoted to resettlement costs associated with "an increase in 27,000 refugee admissions over the 110,000 funded places previously authorized for admission to the United States." That is incorrect.

The \$70 million in resettlement costs is for the 27,000 additional refugees included within the 110,000 "funded" places in the original FY 90 request, for whom funds had not been budgeted when the President set the FY 90 admissions ceiling.

REFUGEES IN AFRICA, HOUSE HEARING ON ASSISTANCE CRISIS

On May 10, the House subcommittees on Africa and international operations held a joint hearing on the U.S. response to the crisis facing five million refugees and ten million internally displaced people in Africa.

"Preventable deaths are occurring daily," said Rep. Howard Wolpe (D-Mich.), chairman of the Africa subcommittee. "Due to the resource crisis facing the international organizations charged with providing protection and assistance for these populations, an alarming portion of refugees and displaced persons are severely malnourished and increasingly vulnerable to disease epidemics."

The International Committee of the Red Cross (ICRC) made an unprecedented appearance at a House hearing to plea for more funds to meet the refugee crisis. A representative from the UN High Commissioner for Refugees (UNHCR) made a similar plea on behalf of his agency.

Pierre Gassman, the ICRC delegate general for Africa, spoke of declining U.S. financial support for ICRC as a proportion of total contributions. The U.S. contribution, he said, "now stands at something like 10 percent of our expected field expenditure overall in 1990 compared with over 25 percent in 1986."

Nicholas Morris, deputy head of UNHCR's regional bureau for Africa, said UNHCR anticipates a \$150 million budget shortfall this year. UNHCR's programs for Africa have recently been cut by 20 percent, he announced, because of the funding crisis. (See previous Recent Development, and Refugee Reports, Vol. X, No. 11 and Vol. XI, No. 2.)

Administration Criticizes UNHCR Priorities

Ambassador Princeton N. Lyman, director of the State Department's Bureau for Refugee Programs, told the House subcommittees that the U.S. would increase its assistance to African refugees from \$70 million in FY 90 to \$75 million in FY 91. This does not include emergency funds that could be used for unforeseen and urgent developments during the year, nor does the total include food aid provided under the Food for Peace program. Emergency funds represented \$14.6 million of the \$70 million contributed for African refugee assistance last year.

Lyman said that the Administration had pressed UNHCR to improve financial management and increase cost-sharing with other UN agencies. "To be frank," he said, "we are not satisfied that, either within the total program, or always within individual country programs, UNHCR has allocated sufficient

funds to life-sustaining programs in Africa."

Lyman said, "We have pressed UNHCR to give greater priority to assistance programs in the third world--especially in Africa--and, if necessary, less in more developed areas of the world."

UNHCR's Morris responded by saying, "If you are talking about assistance, that is a fair point." He said that more developed countries are better able to sustain their refugee populations. "But," he said, "UNHCR cannot reduce its commitment to protection in Europe." He said that refugees there are being stopped at airports and expelled before having an opportunity even to apply for asylum.

Morris said, however, that the problem will not be solved merely by shifting resources. More money is needed. He quoted the new UN High Commissioner, Thorvald Stoltenberg, as saying, "Almost double the number of refugees are receiving half the amount of assistance per capita compared with ten years ago."

"When I visited Malawi last fall," testified Hiram Ruiz, of the U.S. Committee for Refugees, "the UNHCR and Red Cross representatives there told me that the increase in malnutrition was largely due to the irregularity of food distribution to refugees. That arises because UNHCR cannot afford to keep buffer stocks of food at the refugee camps." Ruiz added, "When delivery of food to the camps is interrupted for whatever reason (including UNHCR's inability to pay truckers), the refugees do not get food."

Horrific Conditions in Ethiopian Camps

The effects of the budget crunch are not confined to southern Africa. Another private witness, Burhan Yussuf H. Adam, a Somali who traveled to Ethiopia at the end of last year to search the refugee camps for missing family members, found shocking conditions.

"People are coming to the camps looking healthy," said Adam, "but after a period of time, they are weaker, sick and malnourished." Nearly ten percent of the population have died in the camps, he said.

Adam said that there are no public or communal latrines in the camps, and no designated areas to bury the dead. Although the refugees are supposed to receive a daily ration of food, Adam alleged that no food

was supplied to the camps during his four-week stay. Corruption in the distribution of food and medicine is rampant, he said, with some food and medicine donated by the international community sold on the "black market." Even water, which has to be shipped into the camps, is sold on the black market. Although the recommended per-capita consumption of water is 20 liters per day, refugees currently receive only 3 liters per day, Adam charged.

Fear in the camps is palpable. "Bandits and armed robbers are present in and around all the camps," he said. "At night, the sound of gunfire makes you feel that you are in a war zone."

Adam said that "UNHCR, the agency that is responsible for the care and protection of the refugees...does not have adequate personnel, resources, or the organization required to fulfill its mission in this region."

INS PILOT PROGRAM TO RELEASE "EXCLUDABLE" ASYLUM SEEKERS ON PAROLE

The Immigration and Naturalization Service (INS) has instituted a pilot program to parole up to 200 detained asylum seekers in the next 18 months in order to see whether it makes sense to release asylum seekers who arrive without valid travel documents.

In announcing the project, which began on May 1, INS Commissioner Gene McNary said that he wanted to determine whether parole of excludable asylum seekers "is feasible and desirable." He added, however, that he continues to think that "detaining asylum seekers can serve as a deterrent against spurious claims."

The pool of 200 asylum seekers in exclusion proceedings will be drawn from Miami, New York, Los Angeles, and San Francisco.

Aliens are placed in "exclusion" proceedings if they are apprehended at a U.S. port of entry, such as an airport, without proper travel documents. This includes those who voluntarily present themselves and ask for asylum. Up until now, they have been detained automatically.

Aliens in "deportation" proceedings are treated differently. They are considered to have entered the United States, and have more legal avenues to fight their removal.

Generally they are released from detention if they can assure the INS that they will not abscond and do not pose a threat to the community.

There are more than 7,500 aliens currently in detention in the United States, more than 500 of whom are in exclusion proceedings.

Will They Show Up for Hearings? Among other things, asylum seekers chosen for the pilot program will have to show that they have an attorney, employment, or other means of support, and will have to satisfy the INS district director that the claims in their asylum applications, if proven true, would make them eligible for refugee status.

Those released on parole will be required to report each month to the local INS office and to appear at all hearings before immigration judges.

At the conclusion of the project, the INS will assess its success, primarily by reviewing the percentage of parolees who report to their hearings.

Arthur Helton, director of the Refugee Project of the Lawyers Committee for Human Rights, said, "It is our hope that this release project will demonstrate that many refugees are being unnecessarily incarcerated in the United States."

Helton said that at the conclusion of the 18-month period, his group plans to request a change in the INS rules concerning the detention of asylum applicants. "This project may signal the beginning of the end of one of the harshest elements of the INS's detention policy," he said.

CONGRESS LOOKS AT U.S.-MEXICAN BORDER VIOLENCE

An increase in the incidence of brutality and violence against undocumented aliens attempting to cross from Mexico to the United States was the subject of an April 18 hearing before the House Subcommittee on Human Rights and International Organizations.

"It is clear that something is wrong on our borders," said Chairman Gus Yatron (D-Pa.) in his opening statement, "and the cooperation between U.S.-Mexican authorities is not what it should be." He said, "The Border Patrol has a responsibility to protect our borders and to ensure the laws are

enforced. They are also responsible to ensure that illegal aliens are treated in a humanitarian manner and when abuses occur formal investigations are conducted and disciplinary actions taken."

Two witnesses from the American Friends Service Committee (AFSC) testified about shootings, beatings, and run-overs by Border Patrol vehicles. Maria Jimenez, the director of the AFSC Immigration Law Enforcement Monitoring Project, presented the subcommittee with a list of 380 incidents of abuse along five targeted areas of the border in the one-year period from May 1988 to May 1989.

Although Jimenez said that "Central American refugees suffered disproportionate legal abuses and violation of procedural safeguards," undocumented immigrants from Mexico, accounting for more than 90 percent of those apprehended, "have borne the brunt of death and serious injury as a result of several improper law enforcement practices, i.e., the inappropriate use of firearms, physical abuse, improper high speed chases, vehicle rundowns, and consequences of arrest-pursuit situations."

Roberto L. Martinez of the AFSC's San Diego office said that 33 people had been killed and 48 wounded by the U.S. Border Patrol (USBP) since 1974 in the San Diego area alone. During that same time period, 12 people had reportedly been run over by Border Patrol vehicles. He said that four to six beating incidents are reported to his office each month, and he estimated that only one-fourth of such abuses are reported. "We have evidence," he said, "that many injuries go unreported because the USBP sends victims back across the border without filing an arrest report."

Martinez presented a list of each of the recorded shooting incidents. A number of the cases he spoke about involved persons shot in the back. Two, including a 12-year-old, were shot in the back on the Mexican side of the border by USBP officers on the U.S. side, according to Martinez.

Steven Garcia, a 10-year veteran of the Border Patrol in the San Diego sector and the president of the AFL-CIO local representing Border Patrol agents in the San Diego sector, testified that the overwhelming majority of shootings along the border involve armed bandits. "It needs to be recognized that all of the assaults by

bandits...occur swiftly and without warning in the dark of night." He said, "Shots fired by law enforcement officers in these situations are strictly in self-defense."

Garcia's description of the 12-mile stretch of border in San Diego was akin to a war zone. He said that 99 incidents of rock-throwing assaults against USBP agents were recorded in FY 88, and that the number of such incidents jumped to 229 in FY 89. "The incredible volume of traffic in such a small area creates an atmosphere which is frustrating and at times frightening," said Garcia. "Hostile crowds of people hurl rocks, bottles, and insults at Border Patrol Agents who venture close to the border." He added that he had had "innumerable rocks thrown at me" and had seen other USBP agents injured in rock-throwing incidents. He said that 76 USBP vehicle windshields had been smashed by rocks in the past two years.

The AFSC's Martinez gave another perspective on the same San Diego stretch. "The border is not a war zone and immigrants are not the enemy. Violence and hostility must be replaced with compassion and understanding. Barriers, guns, and further militarization must be replaced with bridges of communication and mutual respect for the rights and dignity of immigrants and refugees."

Resources

IMMIGRATION LAW REFERENCE WORKS AVAILABLE

Several reference works relating to the defense of aliens and refugees in immigration proceedings are now available that should greatly enhance the ability of practitioners to defend aliens applying for asylum and to deal with other related areas of immigration law and Immigration and Naturalization Service (INS) conduct.

Kurzban's Immigration Law Sourcebook: A Comprehensive Outline and Reference Tool is a handy book that picks apart the Immigration and Nationality Act word by word, giving legal citations, legislative history, and regulatory framework for understanding the way the law is interpreted and enforced. Of particular interest is the chapter, "Fleeing Persecution," in which every key phrase in the Refugee Act of 1980 is

analyzed in light of federal regulations, INS operating instructions, legislative initiatives, and administrative and judicial interpretations.

The author, Ira Kurzban, a noted immigration attorney from south Florida who has been actively involved in defending the rights of Haitians in the United States, adds the occasional, trenchant observation along the way. For example, in outlining regulations relating to an offer of firm resettlement in a third country as a bar for refugee admission to the United States, Kurzban first notes that an applicant who claims not to be firmly resettled must show that his or her condition of residence in the third country has been substantially and consciously restricted by the authorities of that country. Kurzban goes on to note, however, that "noticeably absent from these considerations is the extent to which a third country can protect the refugee against physical harm from agents of the country of origin."

Generally speaking, however, Kurzban allows the case law to speak for itself. Those wanting quick references on important terms such as "persecution", "fear", "frivolous"; on standards of proof; and on other procedural matters relating in the Refugee Act will find the Immigration Law Sourcebook a useful tool.

The 650-page paperback also includes chapters on the history of immigration law, exclusion and deportation, nonimmigrant visas, permanent resident status, third and sixth preference and labor certification, relief from deportation, administrative review, judicial review, employer sanctions, and naturalization and citizenship, among others.

National Lawyers Guild on Defending the Foreign-Born Following the maze through which a "typical" immigration case wends, Immigration Law and Defense by the National Lawyers Guild (NLG) presents case decisions and INS regulations on important areas of immigration law related to asylum seekers and others in various immigration proceedings. The deportation process is covered thoroughly, from grounds for deportation, through the hearing, and the various grounds for appeal.

The two-volume looseleaf format allows for annual page revisions updating recent

developments as they occur.

ACLU Handbook on Alien and Refugee Rights Lay readers may find a recent publication by the American Civil Liberties Union (ACLU) more accessible than either Kurzban's Sourcebook or NLG's guidebook. Following a question-and-answer format, The Rights of Aliens and Refugees explains the basic refugee and asylum policies and procedures in the United States, footnoted with appropriate citations.

Written by four noted attorneys in the field of refugee and alien rights, David Carliner, Lucas Guttentag, Arthur Helton, and Wade Henderson, The Rights of Aliens and Refugees revisits the U.S. Constitution as its starting point in assessing alien rights questions, asserting that "virtually all the protections written into the Constitution are stated in universal terms applicable to all persons, aliens as well as citizens." Disparate treatment of aliens, the authors maintain, stems from legislative acts during periods of hostility toward immigrants. Such restrictive laws have been allowed to stand because of Supreme Court deference to the political branches of government to govern immigration matters "not within any limitations imposed by the Constitution," say the authors, "but 'in accord with ancient principles of the international law of nation-states.'" (For recent examples of court deference to the political branches on the question of asylum, see Refugee Reports, Vol. XI, No. 4.)

The 256-page paperback is one in a series of "The Rights of" various groups published by the ACLU. Among fourteen chapters covering an array of alien rights, special attention is focused on the Immigration Reform and Control Act of 1986, on rights of aliens in deportation and exclusion procedures, and on refugee protection.

How-To-Challenge INS Manual Entering into territory not explored by the other three resources, the National Immigration Law Center (NILC) has published a manual for pursuing administrative and legal remedies for misconduct by the INS and the U.S. Border Patrol. It was written, says the NILC, "to point out the various forms that INS misconduct can take" and to assist in the reporting of complaints about that misconduct. It then provides advice on "the

range of options for remedying such abuse of power" depending on the type of misconduct. Those options, as outlined in the manual, include filing formal complaints with the INS or with the Office of the Inspector General; filing for damages against individual agents or the INS; suing to enjoin future acts of misconduct or from civil rights violations; and challenging policies and practices as unconstitutional.

Like the NLG guide, the NILC manual is published in looseleaf form, facilitating future updates. Its \$10 pricetag for non-profit agencies is also noteworthy.

The AFSC on INS/Border Patrol Abuses Of a more descriptive nature than the NILC manual, the American Friends Service Committee (AFSC) has recently published its second annual report on Human Rights at the Mexico-U.S. Border. It could easily be a companion volume to the NILC manual.

The 34-page report describes allegations of INS and Border Patrol misconduct in San Diego, Tucson, El Paso, south Florida, and the Rio Grande Valley. The subject of the report was recently discussed in a congressional hearing (see Recent Developments).

Ordering Information

* Kurzban's Immigration Law Sourcebook. Send \$69.95 (\$49.95 for AILA members) to AILA Publications, 1000 16th St., NW, Suite 604, Washington, DC 20036.

* Immigration Law and Defense. Send \$175 to Clark Boardman Company, Ltd., 375 Hudson St., New York, NY 10014.

* The Rights of Aliens and Refugees. Send \$7.95, plus \$2 for postage and handling, to Order Department, Southern Illinois Univer-

sity Press, P.O. Box 3697, Carbondale, IL 62901.

* INS Misconduct: Rights and Remedies in Immigration Law Enforcement. Send \$10 (staff of nonprofit agencies) or \$25 (private attorneys) to NILC, 1636 West Eighth St., Suite 215, Los Angeles, CA 90017.

* Human Rights at the U.S.-Mexico Border. Available free of charge by writing to the AFSC Immigration Law Enforcement Monitoring Project, 3635 W. Dallas, Houston, TX 77019.

AMNESTY INTERNATIONAL ON VIETNAM

Although welcoming some human rights improvements, including the release of thousands of political prisoners, a February 1990 Amnesty International report, Vietnam: "Renovation" (Doi Moi), the Law and Human Rights in the 1980s, expresses continuing concerns about individual human rights in Vietnam.

Specifically, the report details Amnesty's concerns over "detention without charge or trial of people associated with the former government of the Republic of (South) Vietnam.... [and] of alleged opponents of the government in 're-education camps,'" and over "persistent reports of torture and ill-treatment of people in police custody or while in detention in 're-education' camps." It also notes reports that during 1989 the government intensified its attempts to prevent clandestine departures. "It appears that many people are detained, sometimes without trial, after trying to leave the country clandestinely," the report says.

The report is available for \$5.00 from Amnesty International, U.S.A., 322 Eighth Ave., New York, NY 10001. (212) 807-8400.

IN MEMORIAM

The Reverend Dr. Donald H. Larsen, the executive director of the Lutheran and Immigration and Refugee Service, died on May 18. Don, who had directed LIRS since 1985, was highly respected in the refugee field for his deep commitment on behalf of refugees. A long-time leader in InterAction, Don is remembered for his frequent calls for principle, and his unwillingness to settle for political expediency. His wise and compassionate counsel will be missed by all who knew and worked with him.

The staff of the American Council for Nationalities Service
and the U.S. Committee for Refugees

REFUGEE ADMISSION LEVELS

<u>Geographic Region</u>	<u>FY 1989 Actual</u>	<u>FY 1990 Ceiling</u>	<u>FY 1991 Request</u>
East Asia:			
First Asylum	27,999	25,000	23,000
Orderly Departure Program	8,002	11,500	14,000
Amerasians	9,683	15,000	15,000
Eastern Europe	8,948	6,500	5,500
Soviet Union	39,553	40,000	40,000
Near East/South Asia	6,980	6,500	6,000
Western Hemisphere	2,605	3,500	3,500
Africa	1,922	3,000	3,000
TOTAL	105,692	111,000*	110,000

* The Presidential Determination ceiling includes an additional 14,000 numbers for private sector initiatives. Of these, 10,000 shall be used for Soviets and 4,000 for any region.

Source: Bureau for Refugee Programs, U.S. Department of State

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TEN YEARS LATER: MARIEL CUBANS TODAY

It has been ten years since the Mariel boatlift of 1980. Between April 21 and September 29 of that year, 125,266 Cubans arrived in Key West, Florida, the vast majority of whom settled in the Miami area.

"Marielitos", as the Cubans who arrived on the Mariel boatlift were termed, became a stigmatized population even while the boatlift was still in progress. Rumors that a high percentage of those arriving were mentally ill, criminals, or prostitutes put on the boats by Fidel Castro spread consternation, even panic, in Miami--and not only in the "Anglo" community. Although the new arrivals included many friends and relatives, there was also fear within Miami's established Cuban refugee community that the Mariel Cubans were different, that they would somehow undermine what earlier Cubans saw as their success story.

Although the rumors were not totally unfounded, they were grossly exaggerated. The Cuban government did indeed offer a number of prison inmates the choice of either leaving the country or remaining in jail with a two-year extension added onto their sentences. Those who agreed to leave were taken to Mariel and loaded onto boats. According to a 1981 report, 20.5 percent of those who arrived had some sort of criminal record, but that included not only petty criminals and people with histories of violent crime, but also political prisoners and others who were in prison for actions that would not be considered crimes in the United States. Others with mental health problems, as well as persons that the Cuban government considered undesirable, were encouraged to leave. But while the number of people in these categories was high, the vast majority of Mariel entrants [a status that the U.S. government devised for Mariel Cubans and Haitians who arrived at that time] proved not to be that different from their predecessors of the 1960s and 70s.

Some differences did exist: a higher percentage of Mariel entrants were black and mulatto (the established Cuban refugee community was disproportionately white); a large percentage were young, single men, many without families in the United States; and they had lived for 20 years in a different Cuba, a communist Cuba. But in a 1982 study of the Mariel Cubans based

IN THIS ISSUE:

This summer marks the tenth anniversary of the Mariel boatlift, during which more than 125,000 Cubans arrived in the United States. In this issue, Refugee Reports staff writer Hiram A. Ruiz looks at how Mariel Cubans have fared--and finds that, contrary to what many expected, most are adapting well...1

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on "relatively complete social background profiles of the Mariel entrants," Robert L. Bach found that, "As a group, they had a much more positive social background profile than the initial or even continuing reports indicated."

Now, a decade later, it is possible to review the differing fortunes of the Cubans who arrived on the Mariel boatlift.

Old Stereotypes, New Realities Most media attention has focused on about 6,000 Mariel Cubans who are currently in prison (see box). They face possible deportation to Cuba--if Cuba will take them. There are also others who are not in prison but who have not integrated well socially or economically and for whom homelessness, alcohol, drugs, and crime are part of everyday life.

But despite the media focus on those in prison, and the visibility of others who have not adapted well to life in the United States, most Mariel Cubans have essentially followed in the successful footsteps of earlier Cuban refugees. Based on the findings of a recent survey conducted by the Miami Herald and Miami television station WTVJ, although 48% of Mariel Cubans and 50% of pre-Mariel Cubans still believe that the two groups are "very different," the Herald said that the two groups are in fact "surprisingly similar." "Mariel refugees are working, paying taxes, buying houses in the suburbs, [and] taking their children to school in their cars," the paper said.

Few From Either Group Would Return to Cuba

The Herald/WTVJ survey found that both groups share equally conservative attitudes about U.S. policies towards Cuba. Only 20% of Mariel and 23% of pre-Mariel Cubans believe that the United States should end its embargo on Cuba. A majority, 85% of Mariel and 75% of pre-Mariel, support TV Marti (U.S. television broadcasts to Cuba). In both groups, the majority also believe that the Republican party best represents the interests of Cuban-Americans, though the level of Republican support--64% among Mariel and 76% among pre-Mariel Cubans--is not as universal as is often thought.

On social issues, however, a large majority in both groups support what are traditionally regarded as liberal positions. For example, 98% of Mariel and 85% of pre-Mariel Cubans support a free national health

THE "EXCLUDABLES"

About 60 Mariel Cubans have never officially set foot in America. They have lived for more than ten years in the U.S. federal prison system, legally excluded from entering the United States because of records of criminality or mental illness in Cuba, awaiting return to a country that doesn't want them.

The 60 excludables who were never released have been joined by others who have committed crimes here. About 2,600 have served their sentences and are being held indefinitely pending deportation. Another 3,500 who are currently serving sentences will continue to be held after serving those terms.

Other nationalities are placed in "exclusion" for shorter periods of time. But, these Mariel Cubans alone are the product of a stalemate between two governments, neither of which has been willing to take responsibility for them.

Legal appeals have been exhausted. One federal judge bluntly said that the U.S. government could "keep them in the Atlanta pen until they die."

On the tenth anniversary of the Mariel boatlift, the Washington Post editorialized, "The constitutionality of this detention has been tested and affirmed by the courts, but the idea of confining people indefinitely after they have completed their sentences is repugnant."

Following prison rioting in 1987, about two-thirds of the detainees were approved for release by INS review panels. But others took the places of those released, and approvals dipped to 25 percent in INS reviews in 1988 and 1989. Justice Department panel reviews of those denied by the INS who were in custody before 1987 have been approved at a rate of 45 percent.

Gary LeShaw, of Atlanta Legal Aid, said, "Imposing prison sentences where state and federal courts have determined that none is warranted, adding time to sentences already served, or worst of all, imprisoning people who were guilty only of mental disorders, flies in the face of what justice and fairness are thought to mean in this country."

plan, while 65% and 62% of the respective groups believe that abortion is a personal decision in which government should not interfere.

Both groups also hold similar views about two other issues regarding the future. Roughly half of those interviewed in each group believe that the United States should not allow another massive arrival of Cuban refugees. Also, a large majority in each group--85% of pre-Mariel and 86% of Mariel Cubans--said they plan to stay in the United States permanently, even if there were to be a democratically elected government in Cuba--a development about which both groups are optimistic.

"After All, They've Been Here Ten Years"

Lisandro Perez, chair of the Sociology and Anthropology Department at Florida International University (FIU) in Miami, agrees that, overall, Mariel Cubans have integrated fairly well. Nevertheless, some stereotypes persist, and that is ironic, because according to Perez, Mariel Cubans "are the most heterogeneous group of Cubans to arrive in the United States, and it is very difficult to generalize about them."

"If you look at all the Cuban students at FIU [Mariel and pre-Mariel], there are only a few ways you can tell them apart," Perez told Refugee Reports. Those who came via Mariel, Perez said, "speak Spanish better and are likelier to use it more often" than those who were born or grew up in Miami. But according to Perez, Mariel Cubans are generally "not a separate group within the community." "After all, they've been here ten years," he added.

"He's A Marielito, But One of the 'Good Ones'"

Miami pianist and music teacher Jesus Garcia, whose Arts Development Center holds concerts and stages zarzuelas (Cuban musicals), says that while he finds that the stigma is largely gone, the term "Marielito" still exists, and it means something more than someone who arrived in the boatlift. Garcia told Refugee Reports that it is not uncommon to hear people say, "He's a Marielito, but one of the 'good ones,'" or, "Look how well he's done--and he's a Marielito."

When he left Cuba at age 22, Garcia was already an accomplished concert pianist who had performed throughout eastern Europe.

When he arrived in the United States, his life changed dramatically. Garcia says that he spent two "horrifying" months at the reception center in Fort Chafee, Arkansas. After a brief stay in Las Vegas, he headed to Miami, "the famous capital of Cuban exile." But in Miami he encountered discrimination and hard times. Garcia found a job as a cleaner and lived in a room in a run-down hotel. Despite the hardships, however, Garcia had no regrets. "Everything in life has a price," he says, "and I was prepared to pay the price to be free."

Garcia's fortunes changed when he won first place, and \$1,500, in a piano competition. He was subsequently offered a position with the Miami Beach Symphony. By 1984, Garcia owned a home in Little Havana and had founded his own arts company. Garcia says that he is not unique, that there are many success stories like his. "The common factor," he said, "is not skill, talent, or social background. It is the determination to survive and to succeed."

Working Hard and Getting By Although her success story may not be as dramatic as Garcia's, Ofelia Chun has held a job and, until a recent accident, been self-supporting. But, though she is generally satisfied with her life in the United States, she says that it has not been an easy ten years. "At first it was terrible for me," said Chun, who is Cuban-Chinese, "I didn't know the language and I didn't know my way around." But soon she found work as a housekeeper and became independent. "In this country, people have to become independent," Chun told Refugee Reports.

Chun's experience may be fairly typical of many, if not most, Mariel Cubans. While some have done particularly well, for most success has meant being able to work, support themselves, and gradually enter the socio-economic mainstream. According to the Herald Survey, 25 percent of Mariel Cubans own their own homes (compared to 53 percent of pre-Mariel Cubans) and 29 percent have family incomes above \$30,000.

There are also "non-success" stories--those of people who, while not in prison or facing deportation, nevertheless remain marginalized, and not--by most people's definitions--doing well at all here.

Helping the Most Marginal "Gilberto's" is

not a success story. In the ten years he has lived in Washington, D.C., he has been in every hospital in the area, although as he told Refugee Reports, he has only been in jail once--for carrying a concealed weapon. Gilberto has held few jobs, always finding some "church or agency" that would help him. But he's not complaining. "Life is hard here, but it's also easy," Gilberto says. "In Cuba, I had to work or go to jail. Here, if I don't work, nobody cares."

"For a few years, it was very rough," Gilberto said. "I lived on the streets or in shelters." But for the past year he has been receiving disability benefits due to his mental health problems. "Thanks to God, I'm OK now. I have three meals a day, medical attention, and a place to live."

Gilberto is one of the clients in the Mariel Cuban Program at Andromeda Hispano Mental Health Center in Washington D.C. The program offers mental health, employment, and social services to Washington's small but highly marginalized Mariel Cuban population. Many of its clients are among the people who gave rise to the negative Mariel stereotype. Most have mental health problems, many abuse alcohol and drugs, some are homeless, others drift in and out of jail.

The program's clients are a difficult population with whom to work. Fights and arguments are routine. During Refugee Reports' visit, a guard had to be called because of an argument that was heating up into a fight. Frequently, Andromeda staff have confiscated weapons from their clients.

Considering the population the agency serves, Dr. Ricardo Galbis, Andromeda's director, believes the program has been successful. "I think we've done a great deal of good," he told Refugee Reports, "We've helped a number of our clients to reintegrate, despite their problems."

But according to the program's coordinator, Eliana Labarca, helping clients reintegrate is becoming increasingly difficult. Labarca says that in previous years, while most clients had mental health, alcohol, or drug abuse problems, at least some were motivated to put their lives in order. "With help," says Labarca, "they were able to pull themselves together, get--and keep--jobs, and function in the community."

"Some of the clients that remain in the



Miami concert pianist Jesus Garcia, who arrived in the 1980 Mariel boatlift, says that while the Mariel stigma is largely gone, the term "Marielito" is still used, and that it has pejorative connotations. Garcia says that it is not uncommon to hear people say, "Look how well he's done--and he's a Marielito." Photo: USCR/H. Ruiz

program today are those who couldn't, or wouldn't, integrate," says Labarca. Now there is also a new group of clients, young men who were in their late teens or early twenties when they left Cuba who did not assimilate well in the United States. They are potentially employable, but don't want to work, says Labarca. Some have mental health problems, but won't accept treatment. Alcohol and drugs, particularly crack cocaine, dominate their lives, she says.

Maritza Aragon, director of the Little Havana office of Miami's Christian Community Service Agency, which offers employment training and emergency assistance to entrants and refugees, told Refugee Reports that many of her clients are also people who have had difficulty in building new lives in the United States. A majority of the people her office serves are Mariel Cubans, and most of them are single men in their thirties. "They are the same individuals who did not assimilate ten years ago, and who still have not assimilated," Aragon said.

Looking Forward Many of those with whom Refugee Reports spoke foresee a widening gap between the vast majority of Mariel Cubans who have "made it," and the relatively small minority who haven't.

Those who came with problems and who were not able to join the mainstream are seen as likely to remain marginalized. "Those individuals will probably continue having problems," says Alina Becker of the Cuban American National Council. "Those with mental health problems may need periodic or continuing help from mental health counselors, and those with criminal histories may continue to go in and out of jail," Becker told Refugee Reports.

But the Mariel Cubans who have entered the Cuban-American mainstream are seen as likelier to become even more fully integrated. "The more time that passes," Becker said, "the less distinction we are going to see."

One possible indicator of future directions came from eight-year-old Kenia Duranona, who is a second generation Miami-born Cuban American. Refugee Reports asked Kenia what the word "Marielito" meant to her. "I've never heard it," she said. "I've heard the name Mario, but I've never heard the word 'Marielito'."

Update

° On June 7, Thai Border Patrol police and army units rounded up more than 1,500 Burmese living in the vicinity of Mae Sot and forced them back to Myawaddy, a Burmese-controlled town. A Thai army colonel told journalists on June 6 that another 10,000 Burmese in Tak province would be repatriated soon, and was quoted as saying that the "situation in Burma is favorable for them to go back now."

On May 27, the opposition forces did win elections in Burma, raising the hope that some 40,000 Burmese asylum seekers in Thailand would be able to return. But the new government has not yet been given the reigns of power, and the Burmese military is still reportedly engaged in hostilities in the border region.

° The government of the Philippines has refused to allow 101 Vietnamese boat people aboard a U.S. naval supply ship in Subic Bay to disembark. A U.S. warship carrying another 155 Vietnamese refugees rescued from the South China Sea was scheduled to arrive in the Philippines on June 13, the Washington Post reported.

Philippines officials have announced that they will not allow ships to bring refugees to their shores unless the countries of those same ships can guarantee that the refugees will be resettled elsewhere within six months.

° On May 30, masked Liberian soldiers forced their way into the UN compound in Monrovia, the Liberian capital. After indiscriminately beating many of the civilians sheltered in the compound, the soldiers abducted more than 40, who were later reportedly killed. Several hundred Liberians had sought UN protection, fearing reprisals from government forces because they are of the same ethnic group from which rebel leader John Taylor draws most of his support.

The number of Liberian refugees who have fled the conflict in that country is now estimated at more than 270,000. Some 70,000 refugees are living in Ivory Coast, while more than 200,000 have entered Guinea. Some 180,000 Liberians are also thought to be

displaced within Liberia.

The Liberian refugees in Guinea are in a remote, difficult-to-reach area. Efforts to provide them adequate assistance have been hampered by logistical problems, a tardy international response, and a cumbersome and reportedly not very cooperative government bureaucracy. According to a U.S. health official who recently visited the area, "severe malnutrition could become widespread."

° Fighting broke out on May 12 between Iraqi Kurds in the Mardin refugee camp and Turkish security forces. Shots were fired, some refugees were reportedly beaten, and six refugee leaders were arrested.

Amnesty International issued a statement saying the organization "fears that this incident may be used as a pretext for the immediate refoulement (forced return) to Iraq of the detainees and others in the camp who may have been involved in the skirmishes."

Recent Developments

U.S. CHECKS CZECH REFUGEE PROCESSING, EAST EUROPEAN RESETTLEMENT SUBSIDIES

The dramatic changes that swept Eastern Europe in 1989 are now affecting East Europeans seeking asylum in the West. Most recently, the State Department announced the suspension of new interviews for Czechs seeking resettlement as refugees in the United States and imposed limits on Bulgarian and Romanian applicants to those who can show family or other U.S. ties.

The policy shift on Czechs is similar to one announced in November that stopped new interviews for Poles and Hungarians (see Refugee Reports, Vol. X, No. 12).

The State Department announcement said that the shift "reflects the development of greater pluralism and democratization in Czechoslovakia and an assessment that trends will continue in this direction." Sources indicated that the policy would be reviewed following this month's parliamentary elections.

As was the case with the suspension of interviewing of Poles and Hungarians, allowance is made for Czechs who can demonstrate that their lives are in imminent

danger (what the State Department calls P-1, or Priority 1, cases, in the six-priority scale used in refugee processing). Although no Czechs will be interviewed who had not registered before April 6, INS officers are permitted to exercise their discretion to offer humanitarian parole in particularly compelling cases where refugee status has been denied.

At the other end of the refugee processing priority scale is P-6, refugees "otherwise of national interest," a catch-all category for refugees without close ties to the United States. When the State Department announced the suspension of new interviews for Poles and Hungarians in November, it also eliminated all interviews for P-6 Poles and Hungarians, including those who had already registered for an interview. According to a State Department source, that decision alone eliminated about 16,000 people from the backlog of East Europeans who had registered for the U.S. refugee resettlement program. The announcement on Czechs does not eliminate interviews for P-6s already registered for them, but eliminates all future interviews for P-2 through P-6. (For a detailed explanation of each of the priority categories, see Refugee Reports, Vol. X, No. 12.)

Bulgarians and Romanians As of May 4, the U.S. government will no longer consider Bulgarians and Romanians in the P-6 category. The State Department announced, however, that Romanian and Bulgarian P-6s who had registered prior to that date would still be interviewed. New applicants who fit the other processing priorities will continue to be interviewed for these two nationalities.

Relatively few Bulgarians have registered for U.S. resettlement. State Department sources suggest that most have few ties to the United States and that Bulgarian Muslims fearing persecution are more likely to cross into Turkey and find permanent refuge there.

Romanians have continued to apply for the U.S. refugee program at a steady pace. Only those Romanians outside their homeland register with voluntary agencies for U.S. resettlement (about 2,400 at the beginning of FY 90 had not yet been interviewed by the Immigration and Naturalization Service). The remainder are part of a long-standing

program, called third-country processing, which operates through the U.S. embassy in Bucharest (see Refugee Reports, Vol. VII, No. 1). In the first seven months of FY 90, the United States accepted 491 Romanians directly from Romania through the third-country processing (TCP) program, and another 1,701 Romanians outside their homeland. The State Department had anticipated shutting down the TCP program by the end of FY 90, but has discovered in the post-Ceausescu era, with eased exit permissions, another 1,000 people still in Romania eligible for admission through the TCP program.

Most of the non-TCP admissions are coming out of Belgrade, since the Yugoslav government has indicated its tolerance for providing first asylum to Romanians depends on quick U.S. processing for those deemed to be refugees by the UN High Commissioner for Refugees.

East European Processing Program Subsiding

In past years, the U.S. refugee admissions program for East Europeans has been characterized by large backlogs and long waits. But, as one State Department source told Refugee Reports, "It's a very different ballgame now." The total "in the pipeline," as of April, was 8,101 (in contrast to 26,897 in the pipeline at the same time last year).

The April 1990 total includes the 6,843 East European applicants who have registered, but who are waiting for their INS interviews, and another 1,258 who have been accepted and are awaiting the final paperwork to allow them to be admitted to the United States. The numbers approved and pending departure have averaged around 1,300 per month for most of this year. The primary cause of delay at this point is medical exams, and what one source called "a general lethargy of the system."

Another factor that changes the ballgame is that INS interviewers are more likely now to reject East European applicants who they determine do not establish a well-founded fear of persecution. From an East European approval rate of 79 percent in FY 87; 66 percent in FY 88; and 72 percent in FY 89, the approval rate has dropped to 47.1 percent in the first seven months of FY 90. The approval rate by nationality shows in clearest terms the changes that are occurring:

<u>Nationality</u>	<u>Approval Rate</u>
Albania	98.6%
Bulgaria	68.5%
Romania	67.2%
Czechoslovakia	34.4%
Poland	17.7%
Hungary	15.5%

With the exception of Romania, a pattern has developed showing higher approval rates for those countries with fewer applicants. For the first seven months of FY 90, 4,052 East Europeans have been admitted to the United States as refugees. By nationality, admissions through April 1990 have been:

<u>Nationality</u>	<u>Number Admitted</u>
Romania	2,129
Poland	1,234
Hungary	251
Czechoslovakia	251
Bulgaria	135
Albania	52

As time goes on, the numbers of applicants, as well as the approval rates, are likely to fall for Poles, Hungarians, and Czechs. In fact, for the last month of the reporting period, April, the approval rate for Czechs had fallen to 6.1 percent and for Poles to 2.7 percent. Also, the number of new registrants coming forward for interviews is tapering down. Most significantly, only 54 Poles and 7 Hungarians were interviewed in April. The largest pool of applicants--764--were Romanians.

The FY 91 budget request indicates that the Administration's ceiling for Eastern Europe will fall by 1,000 numbers, from 6,500 in FY 90 to 5,500. Nearly 9,000 East European refugees were admitted to the United States in FY 89.

Effect on Western Europe Changes in U.S. admissions policies are having a direct impact on the status of East Europeans in Western Europe. The Federal Republic of Germany (FRG) has informed the U.S. government that East Europeans who had already been in West Germany for a year, as of April 14, 1989, and had not been interviewed by the INS, would not be allowed to remain in the FRG. East Europeans arriving after that date will only be permitted to stay for one year "provided that confirmation is received that the application has a realistic chance

of being approved."

For Poles and Hungarians, the time period shrinks to three months. "In practice," said the FRG communication to the State Department, "the regulation limiting stay of Polish and Hungarian asylum seekers to three months when pursuing applications for U.S. asylum/refugee status will hardly be used because, in accordance with the new regulations of the U.S. government, no further refugee applications from Poles and Hungarians will be accepted after November 22, 1989."

AMENDMENT INTRODUCED TO EXTEND LOWER REFUGEE THRESHOLD FOR SOVIET JEWS, EVANGELICALS, AND OTHER CATEGORY GROUPS

Sen. Frank R. Lautenberg (D-N.J.) and Rep. Bruce A. Morrison (D-Conn.) introduced legislation on May 23 to extend for two years the Lautenberg-Morrison Amendment, which makes it easier for Soviet Jews, Evangelical Christians, Catholic and Orthodox Ukrainians, as well as certain categories of Vietnamese, Laotians, and Cambodians, to enter the United States as refugees.

The bills, S. 2677 and H.R. 4899, establish a lower standard for refugee admission for members of these categories--"a credible basis for concern" about the possibility of persecution, as opposed to the "well-founded fear of persecution" standard that defines refugees in the Refugee Act of 1980.

Legislation establishing the lowered threshold for these category groups unanimously passed the Senate last year and became law as part of the FY 90 Foreign Aid Appropriations Act (see Refugee Reports, Vol. X, Nos. 4, 7, and 9). Because the amendment to that law sunsets on October 1, 1990, the new bill was introduced to extend the relaxed standard for these groups until October 1, 1992.

"We continue to need this liberalized standard," said Lautenberg, "because conditions for the persecuted groups in the Soviet Union and Southeast Asia have not significantly improved." Lautenberg said that "the conditions that caused them to seek refuge last year still exist, and in some cases, have worsened." (See Resources.)

Lautenberg added, "If this law expires at the end of this fiscal year, denial rates

for Soviet Jews would go up to about 40 percent."

A General Accounting Office (GAO) report on the implementation of the Lautenberg-Morrison Amendment, issued on May 8, found that almost 78 percent of category applicants interviewed in Moscow and 99 percent of those interviewed in Rome were approved for refugee status in FY 90 prior to the implementation of Lautenberg-Morrison. During February, after the Immigration and Naturalization Service (INS) began implementing the Amendment, INS officers approved 90 percent of applicants in Moscow and 99 percent of those in Rome.

The INS is also applying Lautenberg-Morrison retroactively to all category applicants denied refugee status since August 1988.

Moscow Processing About 45,000 of the 50,000 FY 90 Soviet admissions are being processed out of Rome, where the approval rate has been 99 percent. These are mostly all Soviet Jews. However, Rome processing is due to end by the close of this month. Thereafter all processing will be directly from Moscow.

State Department officials estimate that about 800,000 Soviets will receive U.S. refugee applications in FY 90.

The GAO report cited State Department officials as preferring Moscow processing because it "enables the United States to establish Soviet admission ceilings based on U.S. foreign policy and budgetary considerations, rather than on the number of people the Soviet Union allows to emigrate."

Priority is assigned to those with relatives or other ties to the United States (80 percent of monthly interviews go to applicants falling in priority categories P1-P5--see Refugee Reports, Vol. IX, No. 12 for a detailed breakdown of each of the priority categories).

About 70 percent of the Soviet applicants lack any ties to the United States, however. They are part of the pool that comprises the remaining 20 percent of the interview places. Priority is assigned to members of the religious category groups with distant relatives in the United States or to Soviet Jews experiencing hardships. "Other P-6 Soviets, who have submitted preliminary questionnaires for refugee consideration in FY 90 may never be inter-

viewed," said the GAO report. As of mid-January 1990, 2,100 P-6 refugees without U.S. ties had been approved by the INS in Moscow.

Although processing a refugee out of Moscow was found to be much cheaper than Rome (less than half the cost per refugee), direct departures out of the USSR present other problems. The Moscow Embassy refugee processing unit has been "chronically understaffed," said the GAO, and "nearly all non-INS refugee processing staff will depart by August 1990." The report said that there had been no scheduled replacements for the INS staff that would be departing. The report also pointed out that two of the six interview rooms were unsatisfactory because they did not provide adequate privacy during the interviews.

No New Soviet Emigration Law A major problem remains the failure of the Soviet Union to enact legislation liberalizing its emigration policies. Such a law had been widely expected prior to the Bush-Gorbachev summit meeting, but was withdrawn by the Kremlin at the last minute. The Supreme Soviet again postponed the emigration bill on June 5, following the summit, where President Bush had clearly linked ratification of the U.S.-Soviet trade agreement to final passage of the bill. The bill would give every Soviet citizen the right to hold a passport and travel freely for five years.

Little explanation was given for the delay, though some speculated that it could be due to Soviet concerns, expressed by Gorbachev, about settlement of Soviet Jews in the occupied territories. Israeli Prime Minister Shamir has insisted that Soviet Jews have the right to settle anywhere in "Eretz Israel," the Biblical Land of Israel encompassing the territories extending to the Jordan River. An official of the Jewish Agency said that only 285 of the 49,000 Soviet arrivals since April 1989 had settled in the occupied territories.

As it now stands, exit permission is officially limited to Jews going to Israel or to others with letters of invitation from close relatives abroad. A U.S. Embassy official told the GAO that some Soviet denials of exit permission had been reported among the 2,100 Soviets accepted as refugees by the United States without U.S. family ties.

FY 90 BUDGET SUPPLEMENTAL SIGNED INTO LAW

A \$4.4 billion FY 90 budget supplemental bill signed into law on May 25, which provides \$720 million in economic aid requested by President Bush for Panama and Nicaragua, includes \$100 million for refugee resettlement and assistance.

Of the refugee money, \$70 million will provide federal funding for admission of 27,000 refugees, primarily from the Soviet Union. An additional \$5 million will go to resettle Soviet and Eastern European Jews in Israel. The remaining \$25 million will be available for the State Department to spend on refugee assistance overseas.

Other refugee-related funds in the new law (PL 101-302) provide for the repatriation of Nicaraguan contras and their families, housing loans for Soviet Jews in Israel, humanitarian aid to Cambodian and Romanian children, and targeted assistance for Dade County, Florida, and other communities.

\$70 Million Provides Federal Funds for 27,000 Admissions When the State Department submitted its initial FY 90 budget request in January 1989, it sought funding for the admission of an estimated 84,000 refugees worldwide. Following consultations with Congress in September, the President established an overall refugee admissions ceiling of 125,000, of which 111,000 were to be federally funded and 14,000 were to be resettled with private sector funding.

The FY 90 budget, however, provided federal funding for only the 84,000 refugee numbers in the original Administration estimate, leaving a substantial shortfall in the admissions budget.

In February 1990, the Administration requested that Congress approve a refugee budget supplemental of \$70 million. "The largest portion of this request," said Ambassador Princeton Lyman, director of the State Department's Bureau for Refugee Programs, "covers the increase in the number of funded Soviet admissions from 16,000 to 40,000 and the increase in care and maintenance costs for the entire caseload."

The FY 90 admissions ceiling for the Soviet Union totals 50,000, which includes 10,000 unfunded numbers.

An estimated \$38 million of the refugee

admissions supplemental will pay for the processing, as well as care and maintenance costs, of the remaining Soviet refugees in the Rome and Vienna pipeline.

Another \$14 million will finance transportation costs, and \$18 million will cover reception and placement grants to U.S. voluntary agencies to resettle the 27,000 refugees. In addition to the 24,000 Soviet refugees, 2,000 Vietnamese Amerasians and 1,000 African refugees will enter the United States in FY 90 with full federal funding as a result of the supplemental.

Additional Funded Refugee Admissions Places Found for Soviets As a result of an amendment to the supplemental and a State Department reallocation of regional admissions numbers, additional numbers of Soviet refugees will be able to enter the United States with full federal funding this year.

In an amendment sponsored by Sen. William L. Armstrong (R-Colo.), an "equitable share" of the new admissions funding "shall be made available to Pentecostals, Evangelicals, and Baptists to fund the existing 2,000 semifunded refugee admissions numbers for the Soviet Union."

Of the 10,000 originally unfunded numbers in the Soviet ceiling, the State Department allocated 8,000 for Soviet Jewish admissions and 2,000 for Christian minorities. According to State Department figures, a total of 42,985 Soviet refugees had entered the United States as of April 30, of whom about 80 percent were Soviet Jews, 17 percent were Protestant minorities, and the rest were Ukrainians, Armenians, and others.

The Armstrong amendment also states that the supplemental funds would not need to be tapped if "sufficient unused refugee admissions numbers could be reallocated within this fiscal year to allow adequate funding and admission of this group."

In fact, on May 18, the State Department transferred 1,500 numbers from the FY 90 admissions ceiling for the Near East/South Asia region, which was initially set at 6,500, to the Soviet Union. A State Department official told Refugee Reports that these numbers would be used principally to maintain movements out of Moscow, and could be used to process Soviet Jews, Protestant minorities, or anyone else in the pipeline. As to whether the funded numbers available

through the reallocation would overlap or be added to the funded numbers designated by the Armstrong amendment for Pentecostals, Evangelicals, and Baptists, the official said, "We are still reviewing what to do about this."

The reallocation met with some criticism from Congress and private voluntary agencies. "We do not object to the provision of 1,500 additional refugee numbers to the Soviet Union," said Reps. Jack Brooks (D-Tex.) and Bruce A. Morrison (D-Conn.) in a letter to Jewel Lafontant, U.S. coordinator for refugee affairs. But, they added, "We do not believe that notification that takes place right before the time proposed for implementation constitutes appropriate consultation under the Refugee Act."

They said that the Administration's letter notifying them of the proposed reallocation reached them on May 14. The transfer took effect four days later.

"We believe that such consultations require face-to-face, Cabinet-level consultations even when the worldwide refugee ceiling is not increased," the letter said.

Brooks is chairman of the House Judiciary Committee and Morrison is chairman of the Subcommittee on Immigration, Refugees, and International Law.

"This is not a time to reduce available admissions numbers" from the Near East/South Asia region, said Ross Vartian, chairman of the Armenian Refugee Coordinating Committee. He noted that, as of April 30, 3,264 refugees had been admitted from the region in FY 90, and there were "more than 3,100 persons in the Near East/South Asia pipeline, of which more than 1,700 are already approved and awaiting departure."

There is, said Vartian, a "continuing and undiminished need for admissions numbers for refugees from Iran, Iraq, Afghanistan and other nations in the region."

ERMA Fund Bolstered by \$25 Million Although the Administration did not request additional funding for refugee assistance overseas, Congress added \$25 million to the State Department's Emergency Refugee Migration and Assistance (ERMA) fund. A number of voluntary agencies and advocacy groups, including the U.S. Committee for Refugees, had called for an increase of \$50 million in refugee assistance, in light of the financial crisis faced by the UN High

REFUGEE-RELATED PROVISIONS IN THE FY 90 BUDGET SUPPLEMENTAL

Following are the refugee-related provisions in the \$4.4 billion supplemental appropriations bill, P.L. 101-302, which was enacted on May 25.

° **Resettlement:** \$75,000,000 for Migration and Refugee Assistance to support emergency refugee admissions and assistance.

Of this amount, "not less than \$5,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel." The remaining \$70,000,000 will provide for the admission to the United States of 24,000 Soviet refugees, 2,000 Vietnamese Amerasians, and 1,000 Africans, all previously unfunded numbers in the FY 90 worldwide admissions ceiling of 111,000.

Of the funds allocated in this account, "an equitable share shall be made available to Pentecostals, Evangelicals, and Baptists to fund the existing 2,000 semifunded refugee admissions numbers for the Soviet Union, unless sufficient unused refugee admission numbers could be reallocated within this fiscal year to allow adequate funding and admission of this group."

° **Overseas Assistance:** \$25,000,000 will be available for the Emergency Refugee and Migration Assistance (ERMA) Fund to provide additional funds for overseas refugee assistance programs.

° **Housing in Israel:** \$400,000,000 will be available in housing loans "for the purpose of providing housing and infrastructure in Israel for Soviet refugees."

° **Repatriation of Contras:** \$30,000,000 will be available for "assistance to support the voluntary demobilization, repatriation and resettlement of members of the Nicaraguan resistance and their families." This assistance will only be available to members of the resistance who are abiding by the terms of a regional cease-fire agreement.

° **Aid to Cambodian Children:** "Up to \$5,000,000...may be made available to the President to provide emergency assistance through international relief agencies to children within Cambodia." None of the funds "may be made available, directly or indirectly, for the Khmer Rouge."

° **Aid to Romanian Children:** "Not less than \$4,000,000...shall be made available...through international relief agencies and nongovernmental organizations for health assistance for children in Romania." According to the conference report on the bill, "funds are urgently needed to address the acute shortage of basic medical supplies and sub-standard conditions under which many children, particularly orphans, are forced to live. To the extent feasible, these funds should be used to move children out of institutional care either through family reunification or adoption."

° **Aid to Burmese in Thailand:** Provisions for the distribution of \$250,000 in humanitarian aid that was previously allocated for Burmese students at camps on the border with Thailand have been redrafted to provide assistance "to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict."

° **Targeted Assistance:** \$6,000,000 will be transferred from student financial aid programs to the Office of Refugee Resettlement for the targeted assistance program. \$5,000,000 will go to Dade County in Florida; \$500,000 for communities conducting "Fish/Wilson" demonstration projects that also have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services; and \$500,000 for schools where enrollment of Indochinese students "is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such locality with a general population of no less than 75,000 persons."

Commissioner for Refugees (UNHCR) and other international humanitarian organizations (see Refugee Reports, Vol. XI, Nos. 2 and 4).

In the FY 90 refugee budget bill passed last November, Congress had appropriated \$50 million for the ERMA fund. Since then, the State Department has drawn down \$24.9 million in March for refugee programs in Africa, Southeast Asia, and Latin America, and another \$7 million in May for the UN Relief and Works Agency (UNRWA) for Palestine Refugees.

The supplemental appropriation brings the ERMA fund back up to about \$43 million. A State Department official said it was "very likely" that more ERMA funds would be spent before the end of the fiscal year, but declined to give specifics.

\$5 Million for Cambodian Children Criticized by the Administration A joint House-Senate conference committee on the budget supplemental approved an amendment to provide \$5 million in emergency assistance "through international relief agencies to children in Cambodia" with a stipulation that "none of the funds...may be made available, directly or indirectly, for the Khmer Rouge."

"I do not profess to be an expert on Cambodia," said Sen. Bob Kerrey (D-Neb.), one of the amendment's co-sponsors and a recent visitor to Cambodia, "but several things stand out clearly. One is that there are thousands of children in great need of basic medical care, shelter, clothing, and similar necessities of life. Another is that there is a group of nongovernmental organizations, some from the United States, some from other countries, working in Cambodia to help people at the most basic level.... These relief organizations know the situation in Cambodia and the people. They can put to very good use the funds provided by this amendment."

The State Department had opposed the amendment, citing a ban on U.S. government aid to Cambodia. "We would have preferred that the amendment include language... helping all Cambodian children in need, including those languishing in displaced persons camps in Thailand," a State Department spokesman said. As written, the amendment was "implying recognition of the Phnom Penh regime," said the spokesman.

Amendment co-sponsor Sen. Alan Cranston (D-Cal.) accused the Administration of a "lack of morality" for siding with a non-communist resistance who work in coalition with the Khmer Rouge to overthrow the Vietnamese-backed government in Phnom Penh. "Let us today," Cranston said in offering the amendment, "separate the 'realpolitik' of our policy from the real people of Cambodia. In our political dispute with the Phnom Penh government, let us not punish the people. They have suffered enough."

Dawn Calabia, assistant director for refugees of the U.S. Catholic Conference/Migration and Refugee Service, told Refugee Reports, "We favor humanitarian aid in Vietnam, Laos, and Cambodia. I find it difficult to see how people can oppose assistance to children or anybody else in need." She cautioned that the amendment appeared to have been watered down, probably as a compromise: "It says 'up to \$5 million' rather than 'not less than \$5 million,' and 'may be made available' rather than 'shall be made available.'"

Given the Administration's opposition to the amendment, Calabia said, "they could spend a dollar and say they are in compliance." The conference report accompanying the bill requires the State Department and the Agency for International Development to report to the Appropriations Committees on July 15, 1990 and October 15, 1990 on implementation of the provision.

New Flexibility for Aid to Burmese Refugees When the FY 90 refugee budget was passed late last year, it included an earmark of \$250,000 in humanitarian assistance for "Burmese students at or near the Thai border" who had fled there to escape a crackdown by the Burmese army against pro-democracy activists. But army attacks in 1990 sent the students scattering into Thailand, along with about 16,000 ethnic minority refugees.

Burmese asylum seekers in Thailand now number more than 40,000, including about 2,000 students in Bangkok. But the BRP's legal counsel argued that the language of the Congressional earmark precluded the provision of aid to students away from the border, or to ethnic minority groups anywhere.

Sen. Daniel P. Moynihan (D-N.Y.), the sponsor of the original earmark, introduced

an amendment establishing new guidelines for the provision of aid "to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict."

The conference report noted that House and Senate conferees on the supplemental bill agreed both with the original provision and the additional flexibility provided by the new amendment but "are not prepared to agree quickly to long-term or substantially increased bilateral funding of any Burmese person displaced in either Burma or Thailand. The conferees believe that an internationally organized multilateral program to assist such persons, restricted to discrete geographic areas, is the most appropriate approach to dealing with this problem."

The internationally organized, multilateral program for displaced Burmese that is preferred by the conferees may be unnecessary, or it may be impossible. On May 27, the pro-democratic opposition party, the National League for Democracy (NLD), won a landslide victory over the party of the ruling military junta, the National Unity Party (NUP), in an election marked by widespread intimidation and arrest of opposition supporters but apparently free balloting.

If the NUP transfers power to the new civilian government promptly and peacefully, it could pave the way for the safe repatriation of the Burmese in Thailand. If the military delays or subverts such a transfer, and many Burmese have voiced deep skepticism of the army's intentions, thousands of Burmese will remain trapped in Thailand. And the Thai government, so far, has shown little interest in a multilateral, international aid program for Burmese students and ethnic minority groups.

\$6 Million for Targeted Assistance in Florida, Oregon, and Massachusetts In last year's budget supplemental, the Office of Refugee Resettlement (ORR) did not request and was not allocated any additional funding for domestic resettlement services, despite a mid-year increase in the worldwide admissions ceiling from 94,000 to 116,500.

This year, again, ORR did not request any additional resettlement funds. Congress, however, added \$6 million for the ORR targeted assistance program by transferring unused funds from a student finan-

cial aid program.

Although no states were named in the supplemental bill, an ORR source told Refugee Reports that the funds are intended for three states: Florida, Oregon, and Massachusetts.

The bulk of the new targeted assistance money, \$5 million, will go to public schools and Jackson Memorial Hospital in Florida's Dade County to assist Cuban and Haitian entrants who entered the United States in the 1980 Mariel boatlift. Another \$500,000 will assist "communities currently conducting a 'Fish/Wilson' demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services." The only community that meets these criteria is Oregon, said the ORR source.

The remaining \$500,000 in supplemental funds for targeted assistance is designated for schools "in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons." The public schools in Lowell, Massachusetts appear to meet these criteria, according to the ORR source.

Sen. Tom Harkin (D-Iowa) noted that "HHS has not come forward to request supplemental funds despite our urging them to do so last year." He said this was "placing great strains on many States" in FY 90.

"I am disappointed by the failure of HHS and OMB to request supplemental funds for domestic refugee programs," said Sen. Pete Wilson (R-Cal.), who represents the state that has resettled the most refugees. "We must remember that refugee policy does not end with the actual processing and admissions into the United States. That is only the beginning as the long resettlement process begins."

"Most, if not all, refugees, enter the United States with minimal English skills, competitive job training, or education," said Wilson. "Without the training and services these programs provide, there is, in all likelihood, little hope that these individuals can become productive members of society, which is truly unfortunate given the tragedies and persecution these people have already endured and from which they have escaped."

Resources

TWO REPORTS ON SOVIET ANTISEMITISM

The background to the reintroduction of the Lautenberg-Morrison Amendment (see Recent Developments) is the historical pattern of antisemitism in the Soviet Union, combined with the resurgence of anti-Jewish expressions as centralized power declines and nationality sentiments rise.

Unlike past Russian history, where the government fomented pogroms and other forms of Jewish persecution, today Soviet Jews perceive antisemitic excesses coming "from below," from extreme nationalist groups, such as Pamyat, who engage in public, blatant antisemitic agitation that Zvi Gitelman, author of "Antisemitism in the Age of Perestroika," says would not have been tolerated before Glasnost.

He says that Soviet Jews feel "politically impotent and hence vulnerable." The weakness of the central government is a cause for great uncertainty. "Where once Jews feared the power of the government, today they are frightened by its weakness," Gitelman says. "It may have neither the will nor the ability to intervene effectively against antisemitic attacks."

Gitelman notes a number of areas where Jewish life has improved as a result of Gorbachev-era reforms. Access to religious books has been made easier and Jewish theological seminaries have been established in Moscow and Leningrad. Jewish cultural organizations freely publish and distribute their magazines and newsletters. He writes, "From a Western perspective, the behavior of Soviet Jews today could be seen as irrational and hysterical. After all, very few Jews have been killed in the ethnic violence of the past two years, some Jews seem to have attained prominence in the Soviet intelligentsia, and, besides, those who are truly frightened can leave."

But Gitelman says that Soviet Jewish perspectives are different from Western outlooks, "because they have been molded in a specific historical context and very different circumstances from that of American Jewry."

The author recounts centuries-old anti-

semitism from Russia and the other Soviet republics, and notes, "there is much historical evidence that antisemitism is deeply rooted in some segments of Soviet society."

Gitelman interviewed 1,161 ex-Soviet citizens who had left the USSR between 1977 and 1980 and found that 74 percent from the Russian republic (the RSFSR) had personally experienced antisemitism often or sometimes. Encounters with antisemitism were less for Jews from Georgia and Central Asia.

Looking at the attitudes of contemporary Muscovites, Gitelman cites a recent survey in the Moscow region in which 18 percent of the respondents said they disliked Jews, an equal amount said they liked them, and 65 percent said they were neutral. Nearly equal proportions thought that "most people in the Soviet Union are anti-Jewish" and that "very few people are anti-Jewish." Over 90 percent thought Jews should have the right to emigrate or choose to stay in the USSR and 88 percent favored equal employment opportunities for Jews.

"Though these results--which may not be generalizable to the country as a whole--indicate higher levels of antisemitism than what most surveys find in the United States, they do not indicate widespread and intense anti-Jewish feelings which would lead to pogroms," says Gitelman. The author also points to March 1990 elections in local soviets in which candidates associated with extremist nationalism and antisemitism were "soundly trounced" in Moscow, Leningrad and other areas.

Yet, Gitelman finds, "Antisemitism is more visible and blatant today in the USSR than it has been in the last forty years."

Another report, "The United States and Soviet Jews: Refugee Policy and Acculturation," by Gary Rubin of the American Jewish Committee, asserts that "Soviet Jews are indeed in great danger." Like Gitelman, Rubin also notes the history of Russian antisemitism, and more recent expressions of it in the Gorbachev era. Rubin, however, looks not at antisemitism per se, but rather in terms of the admission of Soviet Jews to the United States as refugees.

He looks at the definition of refugees, as persons with "well-founded fears of persecution," and says that this means we must turn attention to "the subjective inner concerns of Soviet Jews themselves." He reports that Soviet Jews "are worried about

their plight" and "anxious to get out of the country."

Rubin cites the same survey of attitudes towards Jews in Moscow as did Gitelman, and arrives at an alarming conclusion. "These data prove conclusively," says Rubin, "that Jews have well-founded reasons to fear for their safety in today's Soviet Union."

Among other things, he recommends that the United States maintain pressure for Soviet Jewish refugee admissions to the United States at "at least the current levels," and that the Lautenberg-Morrison Amendment be extended.

Limited copies of "Antisemitism in the Age of Perestroika" are available free of charge from the Hebrew Immigrant Aid Society (HIAS). To order, call or write Alma Thomas, HIAS, 200 Park Avenue South, New York, NY 10003-1572. (212) 886-9446.

"The United States and Soviet Jews" is available for \$5 from the American Jewish Committee, Institute of Human Relations, 165 East 56th St., New York, NY 10022-2746.

U.S. CULTURAL ORIENTATION BOOKS TRANSLATED INTO PERSIAN AND ARMENIAN LANGUAGES

Newly arrived speakers of Persian and Armenian will have their cultural orientation to American life eased somewhat with the availability of two translations of works previously available in English.

America: A Nation of Immigrants is a Persian-language companion volume to Iranian Refugees in America: A Cross-Cultural Perspective (see Refugee Reports, Vol. VIII, No. 10), published by the U.S. Baha'i Refugee Office. The booklet attempts to shed light on those aspects of American life that Iranian readers would be most likely to find hard to understand.

"Facts of Life in the United States: Information for Refugees Who Come to the United States," a publication of Migration and Refugee Services of the U.S. Catholic Conference and the Lutheran Immigration and Refugee Service has been translated into Armenian by the Armenian Assembly of America. Translated into both Eastern and Western Armenian, the booklet would be useful for Armenians coming either from the Soviet Union or from Iran and other Middle Eastern countries.

"Facts of Life" can be ordered for \$1.50

from Publications, Migration and Refugee Services, U.S. Catholic Conference, 1312 Massachusetts Ave., NW, Washington, DC. 20005. Bulk copies are available at reduced rates.

America is available for \$2 from Baha'i Distribution Service, 415 Linden Ave., Wilmette, IL 50091. (800) 999-9019.

RECOMMENDATIONS OF WORKING GROUP ON VIETNAMESE FORMER RE-ED DETAINEES AVAILABLE

The final report of a working group convened on behalf of the Office of Refugee Resettlement (ORR) by the Refugee Policy Group (RPG) on the needs of former re-education camp detainees from Vietnam is now available. The group held two consultative meetings on January 16-17 and February 13-14, 1990 (see Refugee Reports, Vol. XI, No. 2).

The report, "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam: Summary and Recommendations," includes recommendations on service needs in the areas of cultural orientation, health, language training, and vocational training, and employment. For information, contact Refugee Policy Group, 1424 16th Street NW, Suite 401, Washington, DC 20036. (202) 387-3015.

USCR REPORT ON BURMESE REFUGEES AVAILABLE

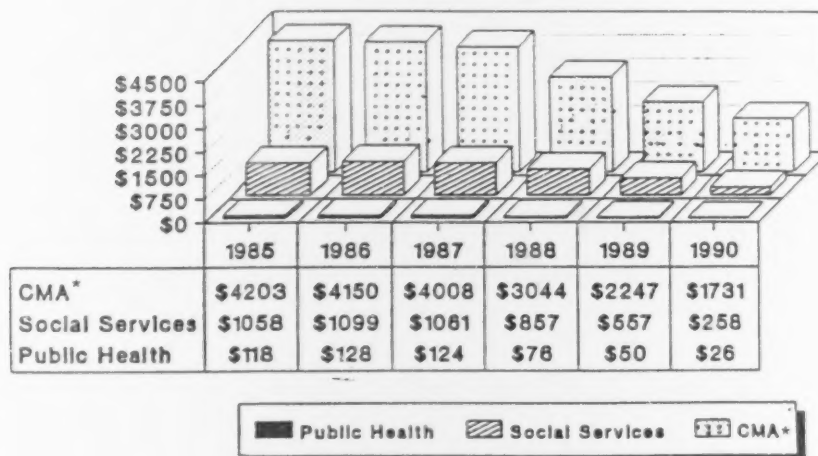
A report on the crisis facing some 40,000 Burmese refugees in Thailand is now available from the U.S. Committee for Refugees. The report, based on site visits to the Thai/Burma border in 1989 and 1990 by USCR policy analyst Court Robinson, notes that, although the defeat of the repressive military government in the May elections holds out some hope for the eventual return home of Burmese refugees, they still face real danger (see Recent Developments, Update).

The USCR report calls upon Thailand to declare a moratorium on the forced repatriation of Burmese asylum seekers--students, ethnic minorities, or others with a well-founded fear of persecution--and instead provide them temporary asylum.

Refugee Reports subscribers receive a free copy of the report. Send \$3 for each additional copy to USCR at 1025 Vermont Avenue, NW, Suite 920, Washington, DC 20005.

U.S. REFUGEE RESETTLEMENT

Federal Dollars Per Refugee Arrival



Based on 68,045 Arrivals in 1985;
 62,440 in 1986; 64,843 in 1987; 76,622
 in 1988; 116,600 in 1989; & 126,000 '90.

* Cash and Medical Assistance

Source: Office of Refugee Resettlement, Department of Health and Human Services
 Chicago Regional Office--March 1990

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HIV/AIDS: EFFECT OF U.S. POLICY ON REFUGEES AND OTHERS SEEKING TO ENTER OR STAY IN THE UNITED STATES

The boycott of the Sixth International Conference on AIDS in San Francisco by numerous international organizations, governments, and AIDS service providers focused worldwide attention on the U.S. policy that bars individuals with the Human Immunodeficiency Virus (HIV), the virus that causes AIDS, from entering the United States--unless they are granted a special waiver. The boycott arose because HIV-positive individuals planning to attend the San Francisco conference could be denied entry to the United States. However, it also focused attention on the effects of the U.S. policy on refugees, asylum seekers, legalization applicants, and immigrants with AIDS or HIV.

The policy has been in effect since December 1987, after Congress instructed the Center for Disease Control (CDC) to add HIV infection to the "dangerous contagious diseases" that exclude persons from entering the United States (see Refugee Reports Vol. VIII, No. 9). The International Red Cross, the European Parliament, the governments of Switzerland and France, and the National Gay and Lesbian Task Force were among more than 85 groups that joined the boycott.

Following intense international pressure, the U.S. Immigration and Naturalization Service (INS) instituted new procedures that made it possible for aliens to apply for a special 10-day visa to enter the United States specifically to attend approved scientific, professional, or academic conferences without being questioned about their HIV status.

The INS 10-day visa was widely criticized, however. One conference organizer said, "Clearly, no one would choose to get...[the] 10-day visa unless they were infected." The Whitman Walker Clinic, Washington, D.C.'s largest AIDS services provider, called the new procedure "a patronizing step and a completely unacceptable solution."

The World Health Organization (WHO), the UN agency that has been at the forefront of the global fight against AIDS, has also been a critic of the U.S. testing and exclusion policy. According to a recent Human Rights Internet (HRI) study on AIDS, Double Jeopardy--Threat to Life and Human Rights, Discrimination Against

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The effect on refugees and similarly situated people of the U.S. policy that excludes people who test positive for HIV/AIDS from entering the country is the subject of this month's lead story by Hiram Ruiz.....1

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Persons with Aids (see Resources), the WHO opposes the imposition of travel restrictions on people with AIDS or HIV. The HRI report says that WHO considers such restrictions "ineffective, costly, and discriminatory."

Policy Affects Individuals Both outside and within the United States

The U.S. screening policy affects groups both overseas and in the United States, including:

- ° **Immigrants** All potential immigrants to the United States over the age of 15 are tested for HIV in their country of residence. If an applicant tests positive, he or she is denied entry to the United States. According to the State Department, in FY 1989, 412,301 immigrants entered the United States. Some 4,090 individuals were initially deemed ineligible for entry because they had one of the listed contagious diseases, but 3,233 of them overcame their ineligibility and were among those admitted. Another 837, however, were denied entry. Since the State Department says it does not keep HIV-specific statistics, it is not possible to know how many of those 837 individuals were denied entry because of HIV.

- ° **Refugees** Refugees overseas who are seeking resettlement in the United States are tested after they are approved for resettlement. If they test positive, they are denied entry, although they can request a waiver of the decision. There is concern among some refugee advocates, however, that refugees who test positive may not be receiving information regarding the existence of waivers.

According to the HRI report, the United States was the first country to adopt a policy requiring mandatory HIV screening of all applicants for refugee resettlement. Since then, other countries, including Australia, have followed the U.S. lead.

- ° **Asylum Seekers** Individuals who are already in the United States and who apply for asylum are not tested at the time of application. They are tested, however, when they seek to adjust their status to permanent resident. If they then test positive, they are denied permanent resident status, although they can also request a waiver. Little information is available on persons in this category. There has been at least one waiver application filed in California by an HIV-positive asylee seek-

ing to adjust, and reportedly several other HIV-positive asylees seeking adjustment also plan to apply for waivers.

- ° **Legalization Applicants** Persons residing in the United States who applied for legalization under the amnesty provision of the Immigration Reform and Control Act (IRCA) of 1986 are also tested, and if found to be positive are denied legalization, though they too can apply for waivers.

- ° **Cuban and Haitian Entrants** As with asylees, Cuban and Haitian entrants are tested when they seek to adjust to permanent resident and can be denied adjustment if found to be HIV-positive. Haitians in particular have faced difficulties throughout the 1980s as a result of their having been identified by the CDC as a separate "at risk" group between 1982 and 1985 (see Refugee Reports, Vol. VII, No. 9). Even now, Haitians complain about what they describe as discriminatory policies, such as the Federal Drug Administration's (FDA) ban on Haitians donating blood. On April 20, 1990, tens of thousands of Haitians demonstrated in New York City against the FDA ban.

- ° **Temporary Visitors** Temporary visitors (including tourists) are asked if they have a contagious disease when they apply for a visa to enter the United States. If they answer affirmatively, they may be denied a visa. Even if they have a visa, visitors arriving in the United States "are subject to testing or medical exclusion if they are suspected of being HIV positive," according to a Refugee Policy Group (RPG) paper, Contagious Diseases and Refugee Protection: AIDS Policy in the United States (see Resources).

What Happens to Refugees Who Test Positive?

The United States began mandatory HIV-testing of refugees accepted for resettlement in December 1987. A total of 69 refugees tested positive for HIV out of the 163,356 who were accepted for resettlement between the time mandatory testing began until December 31, 1989, according to the CDC.

It is not known what has happened to those 69 refugees (presumably more now, since that figure was for the end of 1989). Only two have applied for waivers. Both the INS and the State Department's Bureau for Refugee Programs told Refugee Reports that

they do not keep records that indicate where the 69 refugees who tested positive are.

The HRI report gives an example of the effects of the U.S. policy on the family of one of the two refugees known to have requested waivers. After the family was accepted for U.S. resettlement, they were tested for HIV. HRI said, "The wife was found to be HIV-positive and thereby excluded from resettlement. The asylum country in which the family resided refused to keep them permanently, and the husband and children resettled in the United States." The wife remains in Africa. Her waiver application is still pending.

In an April 1988 statement before the President's Commission on AIDS, the State Department's Bureau for Refugee Programs expressed concern about HIV-positive refugees. A BRP official told the commission, "Refugees are not like prospective immigrants. If an immigrant tests positive for AIDS virus, he remains a citizen of his country with recourse to its institutions.... It is different for refugees. Refugees exist in tenuous circumstances in their temporary homes."

Refugee advocates worry about the fate of refugees who test positive and are then denied U.S. admission. Kate Bond, HIV program director at the Indochinese Community Center in Washington, D.C., told Refugee Reports, "We are concerned that because they are refugees they will not receive even the limited medical treatment and services that may be available to local people." She added, "They are likely to be ostracized, and the additional stress that places on them could have an immediate detrimental effect on their medical condition."

UNHCR Says Screening Refugees Not Justifiable The UN High Commissioner for Refugees (UNHCR), in its May 1988 guidelines on refugees and AIDS, says, "In every refugee situation in which AIDS or HIV infection is an issue, both human rights and protection principles oblige States and UNHCR to cooperate in the avoidance of individual tragedy. This involves recognition of the fact that exclusion is no solution, and that responses must be geared to the dual objectives of combatting the disease and protecting the refugee."

UNHCR stresses that refugees are not a group particularly at risk for contracting

AIDS, and that the number of refugees known to be HIV-positive is extremely low. RPG's report adds, "The underlying assumption of the [U.S. screening] policy--that refugees carry AIDS--is erroneous and dangerous and undermines fundamental principles of refugee protection."

UNHCR is concerned that restrictions regarding HIV-positive refugees may affect not only resettlement, but also first asylum and voluntary repatriation. It has called on countries with restrictions on the entry of HIV-positive persons (such as the United States) to grant waivers automatically in the case of refugees. "Without systematic waivers," UNHCR says, "established first asylum and transit practices will be subverted by the apprehensions of receiving countries. Lives will be lost, for example, through failure to rescue at sea when disembarkation schemes premised on resettlement guarantees collapse because of third country unwillingness to accept those with HIV infection."

Catch 22 for HIV-Positive Refugees in Southeast Asia Thailand has enacted a law that prohibits HIV-positive refugees from residing in that country. Other refugee-hosting countries could follow suit. That raises the concern that HIV-positive refugees who become ineligible for resettlement due to restrictions imposed by resettlement countries like the United States may then be at risk of *refoulement* (forced return).

UNHCR and the International Organization for Migration (IOM) have expressed strong concern about such a possibility. The two organizations have said, "Detention, deportation, or *refoulement* of a refugee because of a disease is, as for any other arbitrary reason, intolerable." Meanwhile, according to HRI, Vietnam has passed a law that bars Vietnamese citizens who fled to Hong Kong--and possibly those who fled to Thailand as well--from repatriating to Vietnam if they are HIV-positive.

HIV-positive refugees, excluded from resettlement, ineligible to remain in a country of first asylum, and barred from returning to their homeland would thus be caught in a tragic "catch-22" situation.

For Asylum/Legalization Applicants in U.S., Effect of Testing Positive "Devastating" It is not only refugees and immigrants

overseas who are affected by the U.S. policy. Dinah Wiley, staff attorney at the Whitman Walker Clinic, says that for legalization and asylum applicants already living in the United States who test HIV-positive, the effects are "absolutely devastating."

"A kind of hopelessness sets in," Wiley told Refugee Reports. "For many, potential problems regarding their immigration status are of even greater concern than even their HIV status. Many will forego medical and other services rather than risk coming to the attention of immigration authorities," Wiley added.

Legalization Applications from HIV-Positive Individuals Often Denied Legalization applicants who test HIV-positive are able to request a waiver. When HIV was added to the list of contagious diseases that are grounds for exclusion in 1987, the same criteria that applied for granting waivers in the case of other grounds of exclusion became applicable to waivers for HIV: family unity, humanitarian purposes, and public interest. However, in a March 2, 1988 memo, INS stated that, to be granted waivers, HIV-positive applicants would also have to establish that: "(1) The danger to the public health of the United States created by the alien's admission to the U.S. is minimal, (2) the possibility of the spread of the infection created by the alien's admission to the U.S. is minimal, and (3) there will be no cost incurred by any level of government agency of the U.S. without prior consent of that agency."

An INS spokesman told Refugee Reports that the INS central office has considered 154 legalization applications from individuals who have tested HIV-positive. Of those, INS said that 8 have been granted waivers, the legalization applications of 35 have been denied, and the applications of sixteen others are pending further information. No decision has been made on the remaining 95 applications.

Ignatius Bau, of the San Francisco Lawyers Committee for Urban Affairs, has compiled further information on the INS decisions, based on copies of INS certified decisions that were made available to the American Immigration Lawyers Association (AILA). Bau found significant differences in approval rates in the four INS regions. In the western region, the approval rate is

LEGALIZATION APPLICANTS AND THE HIV TEST: TWO PERSONS' EXPERIENCES

(Note: Names have been omitted to protect confidentiality.)

Ms. B____, a 36-year-old European legalization applicant who has lived in the United States since 1979, went to a private doctor from the INS list for the required HIV blood test. Several days later, a nurse called Ms. B____ at work and told her that the doctor wanted to speak with her because she had AIDS.

Ms. B____ was emotionally distressed the day she went to the doctor's office. When she arrived, a nurse paged the doctor on the intercom, saying, "The woman with AIDS is here." The doctor then told Ms. B____ that she would be deported--information that was factually incorrect.

Mr. R____, a South American legalization applicant who has lived in New York since 1980, went to a New York clinic for his required blood test. He did not understand that he was being tested for HIV, and the clinic did not give him any information about the test. When he returned for the results, Mr. R____ was told he was HIV-positive and given a sealed envelope to send to the INS.

Mr. R____ became depressed. He did not submit his test results to the INS because he thought his application would be denied. Mr. R____ contacted the Immigration Hotline, which informed him about the availability of waivers and referred him to a counseling center. Some time later, when a counselor called Mr. R____ at work to set up an appointment, the counselor was told that Mr. R____ had resigned his job and left no information about where he could be reached.

83 percent, whereas in the eastern region, the approval rate is only 5 percent.

According to Bau, "Applicants who were granted waivers generally had legal representation, citizen or permanent resident family members, proof of health insurance, and documentation." These included affidavits by the applicants that demonstrated

their knowledge of their HIV infection and enrollment in educational, counseling, or medical program, and affidavits from friends giving good character recommendations or offering financial support."

Among the 37 denials that Bau examined, 21 had not filed a waiver request, 7 others filed waiver requests without any evidence attached, and 9 filed waiver requests with insufficient evidence. The principal reasons given by the INS's Legalization Appeals Unit for denials based on waiver requests with insufficient evidence were: no proof of health insurance; no proof of applicant's involvement in counseling or medical programs; and no information on the applicant's employment status or ability to meet future costs.

Bau expressed concern about the basis of INS's denials. "It seems that the INS is ignoring the three statutory criteria and relying solely on its own three criteria to deny HIV waiver applications," he told Refugee Reports. "Denials are especially questionable when the applicant has a U.S. citizen spouse or children, which presents a *prima facie* case for granting the waiver on family unity grounds," Bau added. In 5 of the first 37 INS denials, the applicant had a U.S. citizen spouse or children.

As with other applicants for legalization whose applications are rejected, HIV-positive applicants who are denied waivers are not deported. However, they remain undocumented and may therefore go underground, shunning medical treatment to avoid future detection by immigration authorities.

Recent Developments

CPA'S FIRST ANNIVERSARY COULD BE ITS LAST

Last summer in Geneva, 56 nations agreed on a plan to resolve, or at least ameliorate, the 14-year-old crisis of the boat people, which has seen more than 1.2 million Vietnamese leave their homeland in search of temporary asylum and eventual permanent resettlement. That agreement, known as the Comprehensive Plan of Action (CPA), committed its participants to a set of interlocking initiatives: temporary refuge and screening for all Vietnamese asylum seekers, resettlement for those screened in as

refugees, and repatriation for those screened out as nonrefugees.

While the CPA has achieved some successes, observers say, particularly in terms of resettlement of "longstayers" in the refugee camps, and while regional boat arrivals have declined by more than 25 percent in the last year, first asylum in Southeast Asia is facing what may be its gravest crisis in more than a decade. Malaysia has pushed back more than 8,300 boat people since May 1989, and the rest of the asylum countries in Southeast Asia have threatened to follow suit if, by July 1, the United States failed either to agree to the involuntary return of the screened-out or to support a holding center for them, pending their eventual voluntary return to Vietnam.

The crisis has prompted a round of shuttle diplomacy by new UN High Commissioner for Refugees, Thorvald Stoltenberg, which took him to several asylum countries in Southeast Asia and to the United States. On June 26, Stoltenberg met with President Bush, seeking to persuade him, as one source told Refugee Reports, that "returning people to Vietnam is better than returning them to sea."

President Bush "restated the U.S. position in support of first asylum in Southeast Asia and against involuntary repatriation to Vietnam under current conditions there," according to a White House press statement. The Administration, furthermore, has rejected the idea of a holding center on U.S. territory and has made no commitments on a regional holding center, except to say that it supports the idea "in principle."

So, although the July deadline has slipped by without incident, at least so far, the threat remains that the offer of asylum--and, along with it, all other commitments to the CPA--could be revoked at any time, leading to pushbacks throughout the region and hundreds if not thousands of deaths at sea.

"While there is a great deal of debate both within the Administration and within the refugee advocacy community on just how the U.S. should respond," said Rep. Stephen J. Solarz (D-N.Y.) to open a June 21 congressional hearing on the CPA, "there can be no disagreement on one crucial point: that time is not on our side."

House Hearing on CPA Examines U.S. Options

Appearing before the House Subcommittee on Asian and Pacific Affairs, which Solarz chairs, Reps. Chester G. Atkins (D-Mass.) and Hamilton Fish, Jr. (R-N.Y.) both endorsed the need for consensus on involuntary repatriation as the only way to preserve first asylum in Southeast Asia.

"I am here to recommend to this committee that you support efforts to send a clear signal to the world community and to our government," said Atkins, "that we are prepared to adjust and to make accommodations on involuntary repatriation in order to restore first asylum. I wish that there were some alternative to that."

Atkins and Fish introduced a resolution (H.Con.Res. 343) calling on the United States to accede to "orderly repatriation provided that there is in place in each country of asylum a credible screening program for determining refugee status; that such a program includes a sound appeals process; and that asylum seekers are well apprised of their rights and options."

The resolution also required that Vietnam gives "every assurance that the returning citizens are not treated harshly; that they are no longer deemed criminals under Vietnamese law; and that returnees are granted full access to representatives of [UNHCR] and other appropriate international organizations."

Both congressmen expressed reservations about a holding center. Fish called it "no more than a Band Aid." Atkins said, "I fear that...establishment of a holding center would just exacerbate the problem because it will create...a magnet for more people to come out on the high seas, more people to risk their lives, [and] more human tragedy."

U.S. Repeats Opposition to Involuntary Return, Concerns on Holding Center

Ambassador Princeton Lyman, director of the Bureau for Refugee Programs in the Department of State, said that a holding center on U.S. territory is not a solution "because the basic hope of people who are leaving is to be resettled. And resettling in the United States is very attractive. The word that the United States was going to take the screened out and put them on U.S. territory, in my view, would act as a magnet."

As for a holding center in the region

that was not on U.S. territory, Lyman said, "We have looked and are looking at all aspects" of that, but "all the first asylum countries have said no" to housing such a facility, as have France and Britain. Lyman estimated that a holding center might need to accommodate anywhere from 20,000 to 50,000 people.

Lyman offered a positive view of the voluntary repatriation effort, noting that more than 3,000 Vietnamese have returned home voluntarily since March 1989, most of these from Hong Kong, and 1,800 more are in line to go back. Furthermore, Lyman said, "UNHCR has been doing a credible job of monitoring the returnees. They report having visited 25 percent of all returnees, including 50 percent of those who have returned to southern Vietnam. They have investigated every report of harassment or persecution, and found none."

At this point, Solarz interrupted with a question. "Mr. Lyman, forgive me, but if the record on monitoring is as good as you say it is, if not a single person who has been sent back has been punished or penalized, then why are you opposed to the involuntary return of people who have been screened out?"

"Because the process of involuntary return," Lyman replied, "requires you to take people who for a variety of reasons--perhaps their own fears of persecution and perhaps for other reasons--refuse to go and must be either forced back or sent back under threat. We do not think that, under the conditions in Vietnam, we ought to do that to people who have risked their lives to come out."

Hong Kong Screening Program under Scrutiny

As of June 30, 1990 there were 46,198 Vietnamese in Hong Kong who arrived after June 16, 1988 and are subject to screening. Of these, 12,102 had been interviewed by Hong Kong immigration officials. A total of 1,921 were screened in and are eligible to seek resettlement in another country. The remaining 10,933 have been screened out. Including those screened in following an appeals process, Hong Kong's approval rate is about 15 percent.

"There have been a lot of problems in the Hong Kong [screening] program," Lyman said. "We have been deeply concerned about the shortfalls and inadequacies in that

Following are excerpts from an exchange between Rep. Stephen Solarz and Ambassador Princeton Lyman at a June 21 hearing before the House Subcommittee on Asian and Pacific Affairs.

Solarz:...We are confronted with the question of what is the lesser of two evils, because I do not like involuntary repatriation; I do not like it for Haiti, I do not like it for Cuba, I do not like it for El Salvador, I do not like it for Guatemala, and I certainly do not like it for Vietnam.

But we have some reason to believe that if we do not go along with this, that countries may very well abandon the principle of first asylum, and then, we know for sure that some will die. We do not know whether it is a dozen, a hundred, or a thousand, but some will die. And if we stick by this position, to some extent, their deaths will be on our conscience.

Now set against that is our distaste for the concept of involuntary repatriation with respect to Vietnam. But in view of the fact that you have said that all of those who have been returned to Vietnam appear not to have been penalized... in view of the fact that Vietnam appears ready to accept any reasonable monitoring arrangement, in view of the fact that the screening procedures, whatever their previous deficiencies, according to your testimony, now seem to be such that at the end of the day, anybody who feels aggrieved can go to the UNHCR, and the UNHCR has the ability to separate them out as a refugee--in view of all those facts, and in view then of the fact that we are talking about the involuntary repatriation of people who are deemed to be economic migrants, why do you believe that it is a lesser evil to face the very real possibility that Vietnamese boat people will lose their lives at sea rather than to return Vietnamese judged as economic migrants, and to send them back to Vietnam, where we can be reasonably confident that they are not likely to be persecuted for having left in the first place?

Lyman: Mr. Chairman, this is a very difficult issue, and nobody pretends to have any simple answers to it, and it poses some very, very difficult choices, but it is not all easy on the other side, either. If you tomorrow agree on the U.S. withdrawing its

objections to involuntary return, there are a lot of consequences there if you think about it. What would it be like to force people back to Vietnam? We saw what it took [for Hong Kong] to send 51 women and children back in December. Three hundred security guards took them back. How much of this do we want to watch? How much of that would have to take place?

Second, is this really a solution? Everybody talks about it in the ASEAN countries and Hong Kong as a solution. But Vietnam has said, "We won't take anybody who is forced back."...What happens if countries go down that path and find that it is impractical, and then say, "Okay, now we've got to abandon first asylum anyway." All I am saying is, it is not the panacea that it sounds like, and it has a large moral cost, too.

Solarz: Is it your view that Vietnam will not agree to involuntary repatriation?

Lyman: They have said that they will not agree to forced return.

Solarz: What do they mean by that?

Lyman: That is still unclear, but it means that they do not want 300 security guards for every 50 women and children who come down off the plane...

Solarz: Well, let me just say that if the Vietnamese refuse to accept people who are sent back against their will, the issue becomes a closed issue, and it does not matter whether we are for it or against it.... But the question that confronts us is: should we support it if the Vietnamese say yes?

Lyman: Well, as I said, there are also a lot of moral reasons as to what we would witness if we went along with it.

Solarz: I suppose that nobody witnesses someone drowning at sea, but is that less morally objectionable?

Lyman: Nobody wants to see people drowning at sea, Mr. Chairman, and we are all faced with some terrible choices and dilemmas here. But, I think that before proceeding with, "Okay, let's agree to involuntary return; that'll answer the question," we ought to think about it very carefully....I think that we need time and patience, and that means compromise. That means giving more time for the present program to work, accepting the screened-out for a longer period of time in first asylum countries.

program." Lyman added that "UNHCR has recently noted some improvements," including the decision by Hong Kong authorities to issue written explanations of denials and to permit UNHCR to sit in on appeals.

"Under the existing procedures, is there any reason for anyone to fear that somebody will be forced to return who is genuinely entitled to refugee status?" Solarz asked. "Only if the system does not work as it should," said Lyman. "That is, if UNHCR does not have a staff working and examining each case."

But several private witnesses testify before the Solarz committee offered more critical views of the Hong Kong screening. Dan Wolf, a Washington lawyer and consultant with Refugees International, interviewed dozens of Vietnamese boat people denied refugee status by Hong Kong and has concluded that the screening procedures "are a ruse designed to discourage new asylum seekers from coming and to pressure those who have come to return to Vietnam."

Wolf cited reports by Amnesty International and the Lawyers Committee for Human Rights, which identified a number of flaws in the screening procedures. These included, according to Wolf's testimony, "inadequate notice, lack of adequate legal advice and assistance, denial of the right to have counsel present during the screening interview, biased and incompetent immigration officers, incompetent and poorly trained interpreters, [and] failure to provide an accurate interview record."

Lionel Rosenblatt, executive director of Refugees International, suggested that if Hong Kong screening were to truly give the benefit of the doubt to the applicant, approval rates would be about 50 percent.

"As long as screening and appeals procedures remain flawed," wrote Arthur Helton, director of the Lawyers Committee for Human Rights, in letters to President Bush and to Stoltenberg, "the possibility looms that genuine refugees will be forcibly repatriated to Vietnam." Responding to the letter, UNHCR's Dennis McNamara, deputy director of the Division of International Protection, cited "very substantial improvements" in the regional screening programs in recent months and said, "We do not agree that the system is so biased or flawed, either in Hong Kong or elsewhere,

that there is a real danger today of refugees being forcibly returned to Vietnam."

Several Private Groups Call for Holding Center

"Unless the U.S. offers other assurances to asylum nations that they will not be left holding the screened out indefinitely," Rosenblatt testified, "opposing mandatory repatriation paves the way for refuge to be closed down throughout the region." The alternative, which Rosenblatt said "has many disadvantages, but is better than any other new proposal on the table," is a holding center for the screened out.

According to Rosenblatt, a holding center "would permit the screened out a subsistence life-style, until they feel that conditions at home permit voluntary repatriation or until the international community can agree that conditions in Vietnam permit mandatory return and that satisfactory safeguards are in place. Special care would have to be taken to avoid creating a pull factor."

Support for a holding center was echoed by other private witnesses, including Wolf; Robert DeVecchi, executive director of the International Rescue Committee; Dawn Calabria, associate director for refugees of Migration and Refugee Services/U.S. Catholic Conference; and Thang Nguyen, director of the Boat People S.O.S. Committee.

Nguyen rejected the idea that a holding center would create a magnet effect. The screened out population placed there "would be well-informed that the only available options are continued stay in the holding center or return to Vietnam," Nguyen said. "We doubt that the prospect of indefinite confinement would be a great incentive for flight."

Nguyen also said that he believed a suitable location could be found "if the U.S. government commits itself" to the idea. "In any event," he said, "the difficulty in identifying a suitable location is hardly a persuasive reason for not making every effort to do so."

"I understand your point about the desirability of a holding center and the failures by the Administration to make a greater effort," Solarz told Nguyen, "but if it turns out that we cannot get a holding center anymore--I gather from what you say that even if you were convinced that other countries would turn away from first

asylum, you would still be against involuntary repatriation?"

"Personally, yes," Nguyen said. "I cannot speculate on the reaction of the Vietnamese American community in general. I suspect that there might be no consensus on that issue."

"I frankly think that the holding center idea is simply going to be 'jawboned'," said Court Robinson, policy analyst for the U.S. Committee for Refugees. "I do not see the commitment there on the part of the U.S. government." Meanwhile, Robinson said, "the terms of preserving first asylum get worse. The lack of clarity on the part of would-be asylum seekers remains, and as more boats go out, the risks of death on the water--not just from pushbacks, but from piracy and the inherent risks of sea travel--go up. So lives are lost even as we talk about a holding center."

FINAL ASYLUM REGULATIONS FINALLY APPROVED

Long-awaited regulations establishing a permanent procedure to determine asylum claims in the United States were signed on July 18 by Attorney General Dick Thornburgh.

"The regulations that I've signed today will ensure that those who seek the protection of this country encounter a fair and sensitive legal process, faithful to the intent of Congress, and one that generates uniform and consistent results," said Thornburgh.

Under the new system, a corps of asylum officers will be created within the Immigration and Naturalization Service (INS), and will be assigned exclusively to adjudicate asylum applications.

INS Commissioner Gene McNary said, "In cooperation with the Department of State, the INS asylum officers will receive specialized training in the standards to be applied in making asylum determinations, as well as worldwide country conditions and international law."

McNary said that the new asylum officers would be specialists, as opposed to the current INS examiners, who act as "general practitioners," adjudicating asylum claims, along with other duties.

McNary also said that the regulations call for the creation of an INS documentation center for the collection and dissemination

of information on worldwide human rights conditions. McNary said that the documentation center would be open to the public "within limits."

McNary estimated that the changes in the INS adjudicatory procedure would cost between \$7 and 9 million annually, and that the corps of 70 to 90 asylum officers and the documentation center would be in place by April 1, 1991.

Asylum Regs: A Long Time in the Making

The final regulations have been years in the making. Since the enactment of the Refugee Act of 1980, asylum adjudication has been governed by an interim rule of June 2, 1980. Proposed regulations of August 28, 1987 essentially would have excluded immigration judges from the asylum process (see Refugee Reports, Vol. VIII, No. 9). Following a storm of protest, those proposed regulations were withdrawn and new ones were proposed on April 6, 1988 that maintained the role of immigration judges, and allowed asylum seekers denied by the INS to raise their claims de novo in deportation or exclusion proceedings (see Refugee Reports, Vol. IX, No. 4).

After April 1988, however, the Justice Department remained officially silent on the regulations for more than two years. During that time, other groups, including the Administrative Conference of the United States (a federal agency charged with improving the procedures of federal agencies), proposed reforms in the asylum system (see Refugee Reports, Vol. XI, No. 3).

A Specialized Asylum Function within the INS

The major changes incorporated in the new regulations occur within the INS itself --the creation of the corps of asylum officers. Fewer changes are evident with respect to INS's relations with the State Department and the rest of the Justice Department, including the Executive Office of Immigration Review.

The new rule, which becomes effective on October 1, provides for continued adversarial adjudications of asylum by immigration judges in deportation and exclusion proceedings, but provides for a nonadversarial hearing by the INS officers prior to the institution of proceedings.

In supplementary information provided by the INS on the new regulations, the agen-

cy stated that "many comments on the previously published rules have raised the objection that the adjudication of asylum cases will remain within INS, since the Service is also responsible for enforcement functions. This regulation creates an asylum adjudications function which is separate from INS' enforcement functions, the Asylum Officers will...deal only with asylum cases."

Specific Provisions of Asylum Regulations

Highlights of the 77-page regulation include the following provisions:

- ° If the asylum applicant's testimony is credible in light of general conditions in the applicant's homeland, his testimony may be sufficient to sustain his burden of proof without corroboration.

- ° It is not necessary for the applicant to prove that he would be singled out if he can establish that there is a pattern or practice of persecuting a group of persons similarly situated, and that he can establish inclusion or identification with that group.

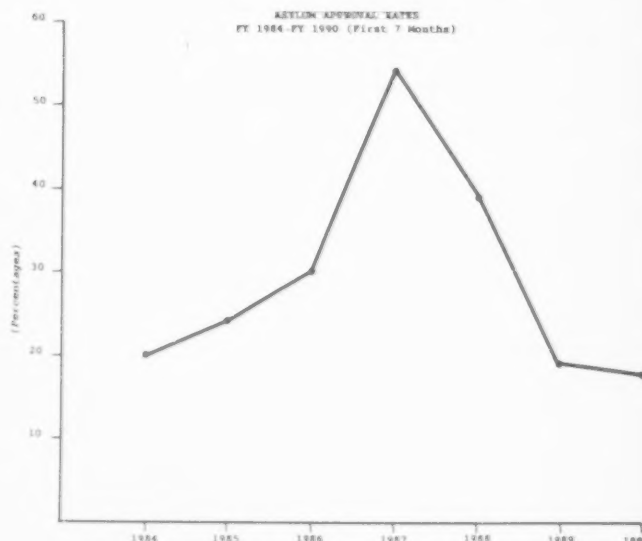
- ° The INS is required to make asylum application forms available to aliens in custody who request asylum or express a fear of persecution, and provide, where available, a list of persons or groups who can assist the alien in preparing the application.

- ° Aliens seeking asylum who are detained by the INS will be given expedited consideration, where possible.

- ° Employment authorization is mandated for applicants who are not in detention, whose claims are determined not to be frivolous. "Frivolous" is defined as "manifestly unfounded or abusive."

- ° Employment is authorized for a period not to exceed one year, and will remain valid for at least sixty days after an asylum officer's denial. It can be renewed if the denied applicant shows that he or she is pursuing administrative or judicial review. Employment authorization is automatically given or extended upon a grant of asylum.

- ° Asylum interviews shall be nonadversarial and, at the request of the applicant, conducted in private. The applicant may have counsel or a representative and submit affidavits of witnesses. Counsel's role is limited to making a statement on the evidence at the close of the interview.



Source: Immigration and Naturalization Service
Based on figures on page 15 of this issue

- ° An unexcused failure to appear for a scheduled interview may be presumed to be an abandonment of the asylum application.

- ° Asylum officers must state the reasons for denials and assess the applicant's credibility.

- ° The State Department's Bureau of Human Rights and Humanitarian Affairs (BHRHA) has the option of commenting on asylum applications, but if no comment is received within 60 days, the asylum officer or immigration judge may decide the claim without a BHRHA response.

- ° Asylum shall be denied if the alien has been convicted in the United States of a particularly serious crime, is a danger to the security of the United States, or has been firmly resettled in a third country.

- ° There are two exceptions to firm resettlement as a mandatory ground for denial: 1) if entry into the third country was a necessary consequence of flight, and the applicant only remained there long enough to arrange onward travel; or 2) if his conditions of residence in the third country are substantially restricted.

- ° Where there are mandatory grounds for denial of asylum, immigration judges need not hold evidentiary hearings on claims of persecution in exclusion or deportation hearings.

° If an applicant is denied asylum in the exercise of discretion, but granted withholding of deportation, the asylum decision shall be reconsidered, as well as other reasonable alternatives for family reunification.

° An alien denied asylum who was maintaining legal nonimmigrant status at the time of his filing may continue to be restored to that status.

° Asylum or withholding of deportation may be revoked due to changed country conditions, fraud, or if the alien is found to have persecuted others, been convicted of a particularly serious crime in the United States, committed a serious nonpolitical crime outside the United States, or represents a danger to U.S. security.

Asylum Advocates Generally Take Wait-and-See Posture Toward New Procedures Arthur Helton, director of the Refugee Project of the Lawyers Committee for Human Rights, called the new rule "a constructive step toward meaningful implementation of the Refugee Act of 1980." He said that the documentation center was "quite promising" and the elimination in gaps for work authorization was "a very positive development."

Helton was not as happy with the limitations on evidentiary hearings for those facing mandatory denials. "This will undoubtedly be the subject of litigation and further proposals for reform," he said.

Kathleen Sullivan, an attorney with the American Council for Nationalities Service, also expressed concern about those facing mandatory denials, saying that the phrase "particularly serious crime" was "overbroad", and that there needs to be "a balancing between the seriousness of the crime and the level of persecution feared." She said that while the regulations go a long way toward improving the process generally, they nevertheless "fail to protect those most in need of protection."

Carol Wolchok of the American Bar Association took particular issue with the limited role of attorneys in interviews before INS asylum officers. "This regulation is unacceptable," she told *Refugee Reports*. "Lawyers need to have a meaningful role in the process. To conduct hearings in that manner is a disservice both to the applicant and the INS."

Helton observed that there is "no dimin-

ishment of the role of counsel" in the new rule, although, he said, "these rules do not address the need to enhance the role of counsel, particularly for indigent asylum seekers."

David A. Martin, professor of law at the University of Virginia, who wrote the report upon which the Administrative Conference made its recommendations for asylum reform, said, "The greatest disappointment from the standpoint of the Administrative Conference is that the regulations retain two rounds of adjudication."

Martin said that he would have preferred to have seen the corps of asylum adjudicators housed in the EOIR as opposed to the INS. But, he said, the reforms of the INS adjudicatory framework in the regulations "could lay the groundwork for more thoroughgoing reforms."

Martin said, "We should pull back from immediate harsh criticism" and "wait and see" how the rule is implemented. The bottom line, he said, is that "a better structure could bring a more even-handed application of standards to garden-variety asylum applicants, who do not have criminal episodes in their history."

INS CONSOLIDATES SHELTERS IN SOUTH TEXAS by Emily Schwartz

The Immigration and Naturalization Service (INS) stopped holding family groups of asylum seekers at the Brownsville, Texas shelter on June 12 in response to decreasing numbers of Central Americans entering the United States with children seeking asylum.

Shelter staff shuttled approximately 75 family members 20 miles away to a site in San Benito, a large warehouse that now holds 200 asylum seekers.

The Brownsville shelter opened in January 1989 at a time when refugee families "were living in abandoned buildings and the government didn't seem to have any plans" to accommodate them, according to Bob Vessey, director of Disaster Services of the American Red Cross (see *Refugee Reports*, Vol. X, No. 1, 2, and 5).

By late 1989, the Red Cross had gradual-

Emily Schwartz worked as a paralegal with ProBAR in Harlingen, Texas in May 1990.

ly handed control of the shelters to another private group, called Texas Key, which won a contract with the Justice Department to run the facilities. Like its predecessor, Texas Key never built a kitchen in San Benito. Since April 1989, staff have bussed food from Brownsville to San Benito.

Medical and administrative staff will remain in Brownsville, where legal workers must obtain a pass to visit refugees at the San Benito shelter. The INS will take families caught wading across the Rio Grande late at night to Brownsville for initial processing, and transfer them to San Benito the next day.

Immigration attorney Linda Yanez says that she would have moved San Benito's refugees to Brownsville. "In San Benito, there's no running water or kitchen. The place is a warehouse, or an oven. There's nothing to do. Over here in Brownsville there were organized activities, and they weren't transferred." Yanez added, "I don't see how it's cost-effective to bring the food three times a day."

While legal workers and immigration officials dispute the consolidation procedure, no one denies that fewer families need shelter. "We were running in the 800s this time last year," said Ken Leuthaecker, deputy associate director for Immigration and Refugee Affairs in the Community Relations Service, the Justice Department's agency that contracts the shelters.

Nicaraguans made up 64 percent of last June's shelter population and currently comprise 54 percent of the residents in San Benito facilities. The marked difference in the number of sheltered families reflects changes in the Nicaraguan refugee flow more than any general trend in Central American political asylum applications.

At the INS Port Isabel Service Processing Center in Los Fresnos, Texas, overall numbers of detainees have dropped to about 800 from 1,500 last year. Salvadorans now outnumber Nicaraguans, who comprised the largest group detained there in the fall of 1989.

SENATE COMMITTEE HOLDS HEARING ON PROPOSED REDUCTIONS IN SLIAG FUNDING

The Administration's proposal to cut the funds available to states under the State

Legalization Impact Assistance Grants (SLIAG) program was roundly criticized by state and local government officials, who claimed that the cuts in essence represented a breach of contract by the federal government. Administration witnesses defended the proposed cuts, and state and local government officials condemned them, at a June 27 hearing on SLIAG held by the Senate Appropriations Committee's Subcommittee on Labor, Health and Human Services, and Education.

SLIAG is a provision of the Immigration Reform and Control Act (IRCA) of 1986, which also provided for the amnesty program, under which more than 3 million aliens have applied for legal status in the United States. SLIAG provides reimbursement to states and localities for expenditures incurred in offering public health, education, and public assistance to aliens participating in the amnesty program. Congress appropriated \$4 billion for the SLIAG program (\$1 billion per year for four years, to be spent over a seven-year period, FY 1988-FY 1994). Of that, \$500 million was expected to be taken off the top to reimburse the federal share of medicaid costs and to pay for federal administrative costs, leaving \$3.5 billion for reimbursement to states and localities.

According to information provided by the American Public Welfare Association (APWA), the proposed FY 90 appropriation reduced the \$1 billion slated for SLIAG by \$555 million, with a provision that these funds would be restored in FY 1992. President Bush's budget proposal for FY 91 calls for a \$537 million reduction of the \$1 billion SLIAG appropriation and seeks to eliminate the provision for repayment in FY 92 of the \$555 million taken from SLIAG in FY 90, for a total reduction of \$1.092 billion.

Senators from Most Affected States Decry Reductions Senator Pete Wilson (R-Calif.) opened the hearing by saying said that he would "strenuously object" to the federal government cutting back on funds it had promised to the states. "A deal is a deal," Wilson said.

Wilson told the subcommittee that California, which received 58.1 percent of all SLIAG funds in FY 89, is home to some 1.6 amnesty recipients, 850,000 of whom live in Los Angeles county; that over 20 percent of all hospital admissions in L.A. county are

legalized aliens (as persons who have regularized their status through the amnesty program are called); and, that one of every 200 babies born in the United States is born to an amnesty applicant in just one Los Angeles County hospital.

"Cutting SLIAG funds does not cause the demand for services or the related costs to disappear," Wilson said. "It merely shifts the burden--unfairly and inappropriately--to a few states and local governments." Wilson added, "Especially in the area of immigration and refugee policy, the federal government is backing out of its partnership with the states."

Reiterating that theme, Sen. Bob Graham (D-Fla.) said that at issue is the partnership between the federal government and state and local governments. Based on their experience with SLIAG, Graham said, states would probably be reluctant to enter into such partnerships in the future. Graham told the subcommittee that had the funds promised to states under the SLIAG program not been included in IRCA, it is doubtful if states and counties would have agreed to IRCA in 1986.

The National Governors' Association (in a statement submitted for the record) concurred, saying that it was the inclusion of SLIAG in IRCA that "allowed state and local government, specifically governors, to support IRCA." The NGA added, "The reductions in funding during last year's appropriations process and the President's proposed reduction for FY 1991 are inconsistent with...the commitment made by the federal government to the Governors and others in 1986."

GAO, OIG Reports Support FY 1991 Reductions, Recommend Delay in Rescission

Sarah F. Jaggar testified for the United States General Accounting Office (GAO), basing her testimony on a study of SLIAG funding requested by Congress in April 1990. Jaggar said, "Almost 90 percent of the federal [SLIAG] funding will go to five states, with California receiving the largest share. Based on estimates obtained from these five states, it appears that costs [incurred by states for providing services to legalized aliens] may exceed \$2.4 billion. However, that amount should be sufficient to cover anticipated drawdowns for all states through 1991." The GAO concluded that "Congress

could take action on the FY 91 budget similar to that taken last year. That is, it should move \$537 million of spending authority to 1992." However, the GAO recommended that "decisions about rescinding the \$537 million and the \$555 million should be delayed until next year's appropriations process, when better state cost data are available."

The Office of the Inspector General (OIG), which also conducted a study on SLIAG presented at the hearing, went even further in supporting the administration's position. Concluding that "a large appropriation could be an incentive [to states] to excessive and wasteful expenditure," the OIG supported a reduction of the FY 91 appropriation by \$500 million and added that "a strong case could be made for further reduction in appropriations, even no appropriation in FY 92."

Opponents Say Reductions Would Affect Services, Burden States According to the APWA, "Any reduction in the [SLIAG] appropriation will put the newly legalized population further at risk; disrupt state planning and service delivery; create a financial burden for states and localities (impacting the entire service population including citizens); and acutely strain the federal-state-local partnership established by SLIAG."

The Administration's rationale for cutting SLIAG funding appears to be based in part on the fact that states have been slow to draw down (claim reimbursement for monies spent) SLIAG funds from the federal government. But, in a statement for the record, the National Conference of State Legislatures (NCSL) said that Congress recognized that draw down would be slow, and that is why it allowed for funds to be spent over a seven-year period. "It is precisely this fiscal design of the SLIAG fund that has eroded the Congressional commitment to fully fund this program," the NCSL said.

"Despite the fact that states fully expect to spend all SLIAG funds in the time frame stipulated and are required by IRCA to provide costly services, there appears to be concern that the [current] unspent balance is evidence that additional funding is not needed," NCSL added. "SLIAG is essential for providing needed services to a new population. Cutting funding in this

area will impact service delivery not only for newly legalized persons, but for all recipients of state social service programs," NCLS said.

Update

° In a policy shift, the United States will withdraw recognition of the Coalition Government of Democratic Kampuchea (CGDK), which includes two noncommunist factions and the Khmer Rouge. The United States will also initiate dialogue with Vietnam in an effort to prevent a Khmer Rouge victory in the Cambodian civil war, Secretary of State James A. Baker, 3rd, announced on July 18, following a two-hour meeting in Paris with Soviet Foreign Minister Eduard Shevardnadze.

"One of the major objectives of our Administration," Baker said, "was to see the withdrawal of Vietnamese forces from Cambodia. We have now seen that accomplished and it is very important, we think, to do what we can to prevent a return to power by the Khmer Rouge.... In keeping with that objective, we have determined that we will open a dialogue with Vietnam about Cambodia, we will be prepared to enhance our humanitarian assistance to Cambodia, and we will be prepared to and will in fact change what has been our policy regarding the seat at the United Nations which has been held" by the CGDK.

In next month's lead, Refugee Reports will examine this important development, particularly the possible impact on Cambodian refugees and internally displaced persons.

° The first international meeting of the follow-up committee of the International Conference on Central American Refugees (CIREFCA) was held in New York on June 27-28, 1990. Some 72 government delegations, 16 international organizations, and 59 private and voluntary organizations (PVOs) attended the meeting. A number of Salvadoran PVOs were prevented from attending, however, because the U.S. Government denied their representatives visas. Both the UN High Commissioner for Refugees (UNHCR) and regional PVOs expressed concern about the United States' exclusion of the Salvadorans.

At the follow-up meeting, reports were presented on the progress achieved in the implementation of the Concerted Plan of Action adopted at the CIREFCA conference held in Guatemala City in May 1989. Funding for an additional 59 projects was also sought from donors at the meeting.

The U.S. representative, Ambassador Princeton Lyman, said that recent developments in Central America—including elections, the demobilization of the Nicaraguan Contras, and peace talks in El Salvador and Guatemala—made it possible for the problems of the uprooted to be tackled to an extent not thought possible last summer. The meeting's president, Arnaldo Lopez Echandi, vice president of Costa Rica, said that while recent developments in the region had encouraged a trend towards voluntary repatriation, not all refugees were likely to repatriate, and the problem of uprooted people still constituted "an urgent challenge."

° On July 10, at least 39 Haitians drowned at sea after their boat was interdicted by the Bahamian Defense Force (BDF) and cap-sized as it was being towed. Sixty-seven survivors were rescued, and 39 bodies were recovered, according to a July 13 AP report. On that day, the St. Petersburg Times reported that 48 persons drowned in the incident.

° At a press conference on July 18, INS Commissioner Gene McNary said that a memo was being circulated at the Justice Department that would recommend that Liberians be given "sympathetic consideration" for deferred departure on a case-by-case basis. He said that blanket EVD (extended voluntary departure—a withholding of deportation for specific nationalities at the discretion of the Attorney General) was not being contemplated.

Meetings and Conferences

° A workshop on Refugees from the Soviet Union: Screening and Health Care Issues will be held in Milwaukee, Wisconsin on September 13. For further information, contact Marjorie Hurie, Refugee and Immigrant Health Program, Div. of Health, 1 W. Wilson St., Box 309, Madison, WI 53701. (608) 266-9452.

**ASYLUM APPLICATIONS FILED WITH
INS DISTRICT DIRECTORS BY YEAR**

<u>Fiscal Year</u>	<u>Number of Asylum Applications Received</u>	<u>Approval Rate</u>
1984.....	24,295.....	20%
1985.....	16,622.....	24%
1986.....	18,889.....	30%
1987.....	26,107.....	54%
1988.....	60,736.....	39%
1989.....	101,679.....	18%
1990 (7 months).....	36,336..	17%

*Source: Immigration and Naturalization Service; data tabulated by
Refugee Reports.*

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August 24, 1990

DESPITE U.S. POLICY MOVES ON CAMBODIA CONFLICT, INDOCHINESE REFUGEES, "INTRACTABLE PROBLEMS" REMAIN

In what has been called everything from a breakthrough to a setback to business-as-usual, Secretary of State James Baker 3rd announced on July 18 that the United States was changing its policy on Cambodia in three respects. In order to "do what we can to prevent a return to power by the Khmer Rouge," Baker said, "we have determined that we will open a dialogue with Vietnam about Cambodia, we will be prepared to enhance our humanitarian assistance to Cambodia, and we will... change what has been our policy regarding the seat at the United Nations which has been held by a coalition that includes the Khmer Rouge."

While it would continue to support the two non-communist factions led by Prince Norodom Sihanouk and former prime minister Son Sann, who are allied with the Khmer Rouge in the tripartite Coalition Government for Democratic Kampuchea (CGDK), the United States would withdraw recognition of the CGDK's UN seat, Baker said.

In 1979, following nearly four years of Khmer Rouge control during which more than one million people died, Vietnamese troops invaded Cambodia, driving the Khmer Rouge into Thailand and installing a friendly government in Phnom Penh, now headed by Prime Minister Hun Sen. In 1982, the CGDK was formed, and ever since it has been recognized as the legitimate government of Cambodia by a majority of nations in the UN General Assembly, including the United States.

The U.S. moves met with approval from Vietnam and the Cambodian government in Phnom Penh, and mixed reviews in the United States. But whatever their views on the policy change, most observers agree that, in the short term, the civil war in Cambodia is likely to heat up, generating more internal displacement of people and more flows of refugees.

The convergence of what Baker called "the two most intractable problems in the region today--the Cambodian conflict and Indochinese refugees" continues to create frictions between the United States and its allies in Southeast Asia.

Despite "Adjustments", Overall U.S. Policy Goals in Cambodia are Unchanged Baker said that the key factor

IN THIS ISSUE:

Do the recently announced changes in U.S. policy on Cambodia constitute a major shift or a modest adjustment, and what are the implications for Cambodian refugees? Court Robinson examines these questions in this month's issue.....1

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driving the U.S. moves was the withdrawal of Vietnamese troops from Cambodia. "We have realized that goal," he said. In September 1989, after a ten-year occupation, Vietnam withdrew most if not all of its estimated 140,000 troops from Cambodia. Although there is some debate as to how many Vietnamese forces still remain in Cambodia, Baker's comment that "we do have now Vietnamese troops out of Cambodia" was the first such acknowledgement by a senior U.S. official.

Another overall U.S. goal in Cambodia was preventing a Khmer Rouge return to power, but "it would appear that the risks are greater as we move forward that that might, in fact, occur," Baker said. Recent press reports have noted steady military gains by Khmer Rouge guerrillas, bringing them to within 50 miles of the Cambodian capital in Phnom Penh.

The third overall U.S. goal is that "we would like to see free elections in Cambodia," Baker said. Despite the new diplomatic and humanitarian efforts, he suggested, these goals were unchanged.

In addition to the withdrawal of Vietnamese troops from Cambodia, growing dissent in Congress provided added impetus for the policy shifts, Baker said. On June 27, the House of Representatives voted 260 to 163 to provide \$7 million in nonlethal aid to the noncommunist resistance (NCR), but opposition was intense. Passage of the legislation was assured only after Rep. Stephen J. Solarz (D-N.Y.), author of the aid bill, offered an amendment requiring that "the President shall terminate assistance...to any noncommunist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge."

The Senate Intelligence Committee later voted to cut off an estimated \$10 million in covert aid to the NCR, according to The Washington Post.

"In the absence of a bipartisan policy approach," Baker said, "I think it will be ever more difficult to continue to generate the funds that we need from the Congress to continue this support" to the NCR.

Testifying before the Senate Foreign Relations Subcommittee on Asian and Pacific Affairs on July 20, Richard H. Solomon, Assistant Secretary of State for East Asian

and Pacific Affairs, said that the changes in U.S. policy were simply "adjustments" and "revisions...designed to encourage flexibility on the part of the key participants in this conflict, and to maintain strong support at home for our efforts."

Despite these changes, Solomon suggested, the cornerstones of U.S. policy on Cambodia remain in place, including aid to the NCR, and the diplomatic and economic isolation of Cambodia. "We are considering contacts with the Phnom Penh regime," Solomon said, but "only if it would advance our goal of free and fair elections."

Senate Asks if New U.S. Policy is "Too Little, Too Late"—Sen. Claiborne Pell (D-R.I.), chairman of the full committee, said, "We should also be seeking an immediate ceasefire and a cut-off of all outside military aid. I hope the new policy is not too little, too late to save Cambodia."

"American policy is in conflict with itself," said Sen. Bob Kerrey (D-Neb.). "On the one hand we openly state that the Khmer Rouge are anathema..., while on the other we negotiate and work with a coalition that they dominate. We have called for an end to the fighting while privately acknowledging that with or without a political settlement the Khmer Rouge will go on shooting. We have maintained a one-dimensional commitment to the noncommunist resistance groups who, left to their own devices, have no reasonable chance for victory."

Sen. Frank Murkowski (R-Alaska) called the Administration's moves "a welcome development, but I believe it is necessary to go further." Saying that the United States "has a clear interest in the survival of the noncommunists as a political force," Murkowski urged the U.S. government to help "forge a coalition between the current Phnom Penh government and the noncommunists, [thereby] isolating the Khmer Rouge."

But in a letter to the Senate committee, Sihanouk's son, Norodom Ranariddh, said that the NCR "will never collaborate" with the Phnom Penh regime, "because not only are its leaders former Khmer Rouge who were also involved in crimes against humanity, but they have betrayed the country to the classical enemy," the Vietnamese.

Solomon reiterated the Administration's support for a "comprehensive political settlement," which would include the establish-

ment of a "Supreme National Council" representing the various Cambodian political factions, as well as a UN transitional authority that would maintain peace and administer the country "in order to ensure a neutral political environment conducive to free and fair general elections."

On July 24, 66 senators wrote to President Bush, saying they were "pleased by the policy revisions," but "there are several additional steps which we believe the Administration should now take." Specifically, the United States should make "active efforts...to deny the resistance coalition's credentials in the United Nations as long as the Khmer Rouge is a member"; investigate reports of NCR military cooperation with the Khmer Rouge; allow development aid to be provided to Cambodia; and open up "direct contacts with representatives of the regime in Phnom Penh."

"Rather than emphasizing an interim power-sharing arrangement," the senators wrote, "the U.S. diplomatic effort should focus on achieving an agreement to hold elections at the earliest possible time, which should include the return and full participation of the noncommunist elements."

Baker Defends U.S. Policies to Unreceptive ASEAN Foreign Ministers If most senators were critical that the Bush Administration's policy on Cambodia was "not new enough" as one put it, Baker encountered a very different sort of dissent when he travelled to Jakarta, Indonesia to meet with the foreign ministers of the six-member Association of Southeast Asian Nations (ASEAN). Prior to Baker's arrival on July 27 for three days of talks, the ASEAN ministers--representing Thailand, Indonesia, Singapore, Malaysia, the Philippines, and Brunei--issued a statement calling the CGDK seat at the United Nations "a delicate political question." Efforts to change the seat, said the ASEAN ministers, "would set back the search for a comprehensive political solution to the Cambodian problem."

Singapore Foreign Minister Won Kan Seng called the U.S. announcement "unhelpful". Said an Indonesian official, "There's a growing feeling in ASEAN that you just can't rely on consistency in United States policy." A number of ASEAN ministers vowed to continue to vote for the CGDK seat in the United Nations.

In his statement at the opening session of the ASEAN post-ministerial conference, Baker appealed for unity. "Continued support for the coalition at the UN is only providing the Khmer Rouge with diplomatic cover for its military maneuvers.... Cambodia's UN seat should belong to a freely elected government--or, as a transitional arrangement, to Cambodians committed to a free and fair election in the context of a comprehensive settlement that includes a ceasefire and a halt of violence against civilians."

Following the conference, Indonesian Foreign Minister Ali Alatas said, in regard to the CGDK seat, "It is here that we differ, that we continue to differ. We now understand better the United States' position, why it believes that it cannot now any more support the CGDK.... We have a different view."

Standoff on Vietnamese Refugees Continues, Despite New U.S. Proposals The ASEAN foreign ministers offered a still more critical assessment of new U.S. proposals to reach regional consensus on the question of screened-out Vietnamese asylum seekers. Under the terms of the international "Comprehensive Plan of Action" (CPA) that was endorsed in Geneva by more than 50 countries in June 1989, all Vietnamese asylum seekers are to be given temporary refuge while they are interviewed by host country officials to determine their status. Those screened in as refugees are allowed to seek resettlement, while the screened-out are to return home. Disagreement on this last point has threatened to undo the CPA.

The ASEAN countries, along with Hong Kong, insist that the screened-out should be returned to Vietnam, voluntarily if possible, involuntarily if necessary. The two holdouts against involuntary repatriation have been the United States and Vietnam.

At a Manila meeting this May, the ASEAN countries and Hong Kong issued an ultimatum directed largely at the United States: either agree to involuntary repatriation or, as an "interim solution," establish a holding center somewhere for the screened out to wait until they choose to go home.

"Failure to agree on even an intermediate solution," the asylum countries warned, gave them the right "to take such

Map of Cambodia and Refugee Camps on the Thai-Cambodian Border



Cambodian refugee camps, under the control of:

- ▲ Khmer Rouge
- Khmer People's National Liberation Front (Son Sann)
- Prince Sihanouk's group
- △ United Nations High Commissioner for Refugees

Camp populations, August 1990, total about 320,200.

SITE 2	165,429	SITE B	57,419	KHAO I DANG	12,666
Dong Ruk	22,329	SITE 8	39,881	SITE K	12,024
San Ro	14,353	O'TRAO	21,280	BAN THAT	2,125
Ban Sangae	28,259	SOK SANN	9,337		
Nong Chan	26,651				
Samet	73,837				

Source: United Nations Border Relief Operation

unilateral action as they deem necessary to safeguard their national interests, including the abandonment of temporary refuge."

Since May 1989, Malaysia has pushed back more than 9,000 Vietnamese asylum seekers, leading to at least six deaths.

In his statement to the ASEAN ministers, Baker said that the "shared benefits and obligations" of the CPA form a commitment that is "extraordinarily well worth preserving." But, he said, "Recently, some have proposed a different approach--the path of critical finger-pointing--and they seem willing to risk the collective, comprehensive effort that has accomplished so very much. We believe that this would be a tragic mistake: It would leave the nations of this region to reap a whirlwind of humanity without international support."

"The CPA is working," Baker asserted, citing among other things the fact that more than 3,000 people have returned voluntarily from Hong Kong to Vietnam since March 1989 "and new arrivals to Hong Kong are way, way down." In June, 737 people arrived in Hong Kong, compared to 9,704 in the same month last year, according to the UN High Commissioner for Refugees (UNHCR). In the region overall, Vietnamese arrivals are down 35 percent as compared to last year.

"Nevertheless," said Baker, "we understand that a comprehensive multilateral effort must meet the concerns of all of its contributors.... While we continue to oppose involuntary repatriation, we are willing to support UNHCR's suggestion for a new category of returnees--that is 'those who do not object.' And we are willing to join with others in a new best-efforts commitment to resettle or return all asylum seekers by the end of 1992."

Indonesia's foreign minister Alatas said, "We appreciate these moves, but in fairness and in all candor, we in ASEAN think that they do not yet go far enough." He insisted that "none of us in ASEAN wants [the CPA] to be scuttled," and said "we should continue to talk and try to narrow the differences further."

In a joint statement, the ASEAN foreign ministers issued a veiled warning. They noted that the United States, in opposing involuntary repatriation, has "refused to provide for effective intermediate solutions." Baker made no mention of a holding center in his statements, and one U.S. official

told Refugee Reports that the idea is "virtually dead."

The ASEAN ministers reiterated their threat to abandon temporary refuge and expressed the view that "it will not be purposeful to convene the next steering committee meeting unless and until there are clear indications of willingness...to effectively address and deal with the question of involuntary repatriation."

Cambodian Boat People Not Included in CPA

As bleak as the future may look for many Vietnamese asylum seekers, at least it is taking shape. For the more than 2,000 Cambodians who have fled their country by boat since April, the future is largely blank. There are no provisions in the CPA for screening of Cambodians or for the resettlement of the screened in. "Nobody has made a decision" about this group, a U.S. official told Refugee Reports. "Nobody wants to touch this question."

During a three month period from April to June, about 1,500 Cambodian boat people reached Indonesia, some 200 to 300 reached Malaysia, and another 200 arrived in Australia, according to local press accounts.

Although the flow has stopped, at least for the moment, government officials from the asylum and resettlement countries are reluctant to start processing any cases. "They are terrified that if they take these people under the CPA wing," one official said, "all of central Cambodia will start taking to boats."

On a visit in April to Pulau Bidong refugee camp in Malaysia, Refugee Reports staff spoke with two recent Cambodian boat arrivals. Both Kong Dareth and Lam Sien Hay are single young men who had paid the equivalent of \$1,500 to board a large Thai fishing vessel in the port city of Kompong Som and flee from the civil war in search of a new life overseas. "I do not want to fight for the Vietnamese, and I do not want to fight for the Khmer Rouge," Dareth said. "I heard that people who reached Malaysia would be resettled in a third country."

That option, apparently, will not be available. "As far as we are concerned," a U.S. official told Refugee Reports, "Cambodian boat people should be given asylum and interviewed to see if they are refugees. If they are refugees under the UNHCR [guidelines], they ought not to be repatriated."

We do not want any of them pushed out to sea. But including them in the CPA and presenting them for resettlement--that's out of the question."

Refugees are on the Move in Cambodia and on the Border Even as the regional climate continues to cool toward refugees, the war inside Cambodia is heating up, displacing larger and larger numbers of people. Fighting between the Khmer Rouge and Cambodian government troops has created up to 130,000 displaced persons in nine provinces surrounding Phnom Penh, according to the New York Times.

The largest numbers--at least 30,000 people--have been displaced in the north-west region near Battambang, say relief officials and diplomats in Phnom Penh. There are perhaps 15,000 displaced persons in Kompong Chhnang province, and equal numbers in Kompong Speu and Phnom Penh.

One explanation for such massive displacement is that, with the withdrawal of Vietnamese troops, the Khmer Rouge have stepped up the range and intensity of their attacks. On July 15, according to the New York Times, Khmer Rouge guerrillas blew up a train carrying civilians from Battambang to Phnom Penh, killing between 50 and 80 people and wounding 100 more. A local farmer said he saw soldiers rob wounded people of their valuables and then shoot them. "The Khmer Rouge said we were travelling on a Vietnamese train," he said.

The prospect of increased diplomatic isolation as a result of the U.S. policy shifts, some analysts say, could make the Khmer Rouge more desperate for a military solution, and could lead to more such atrocities, and more refugees.

But the displacement of civilians is also part of a military strategy by the Phnom Penh government that is reminiscent, said the New York Times, of the American "strategic hamlet" program during the Vietnam War. The Cambodian government "has evacuated peasants in these remote areas... allowing the army to move more freely and the air force to bomb." Also, the Times said, "the population movement deprives the Khmer Rouge of food, recruits, porters, and protection."

Flight into Thailand is also on the rise. According to the UN Border Relief Operation, which administers relief services



Cambodian children at Site B. USCR/C. Robinson

to more than 300,000 Cambodian displaced persons in Thailand, camp populations have increased by more than 32,000 since February.

This increase comes despite substantial movement in the other direction. Asia Watch has reported that the Khmer Rouge and the noncommunist resistance factions "moved an estimated 20,000 people into Cambodia, sometimes forcibly" in the first three months of 1990. These movements, apparently, are continuing. Relief officials on the border have told Agence France-Presse that hundreds

of refugees have fled from Site B to Site 2 because of the "stepped-up militarization" in the Sihanouk camp. One official said he believed that the Khmer Rouge camp of O'Trao, now holding about 21,000 people, would be "emptied by the end of the year."

But all this upheaval could seem like a mere tremor, some are saying, if peace talks ultimately fail, or the Cambodian government collapses, and the Khmer Rouge mount a final, victorious assault on Phnom Penh. The British relief group Oxfam estimates that as many as one million Cambodians could flee their country in the wake of another Khmer Rouge takeover.

Recent Developments

HOUSE HOLDS HEARING ON SOLARZ REFUGEE LOAN FUND LEGISLATION

Certain employable refugees may be eligible for loans of up to \$8,500 in lieu of federal resettlement funding, if legislation sponsored by Rep. Stephen Solarz (D-N.Y.) becomes law. But a number of public and private witnesses, testifying on July 31 before the House Subcommittee on International Operations, voiced concerns about such an approach. The Solarz proposal merits study because it seeks to bring in more refugees for less money, the witnesses said, but they also suggested that there are other costs to consider and many questions still to answer in terms of implementation and of equity.

"In a nutshell," Solarz said, "the problem as I see it is that ever since the Refugee Act of 1980, where in effect we provided funding for the resettlement of refugees in our country, we have a kind of fiscal limitation on the number of refugees that we are in a position to admit."

It will cost the federal government about \$700 million to resettle 114,000 refugees in FY 90, Solarz said, but "there are many other refugees out there who would like to come to the United States but whom we are not admitting even though in every other respect they are eligible for admission simply because we don't have the money to fund their resettlement." He cited the 200,000 people who have applied to leave the Soviet Union and 100,000 former reeducation camp

prisoners and family members who are seeking to leave Vietnam.

Solarz's bill, the "Refugee Guaranteed Loan Act" (H.R. 3726), would provide federal guarantees on private loans up to \$8,500 made to working age, employable refugees. Participants in the loan program would be ineligible for one year for most federally funded refugee assistance programs.

The Solarz bill would require all refugees who are "determined to be able and available to assume full time employment within one year of admission into the United States" to participate in the refugee loan program, unless they are privately sponsored by a U.S. citizen in lieu of such participation. Children, the elderly, and other refugees who are unable to work would continue to be eligible for the full range of federally funded services.

"Given current demographic estimates of the refugee population and resettlement of about 100,000 refugees per year," Solarz said, "we might assume an annual total of 30,000 loan participants. Assuming program administration costs of about four percent, an average loan of \$7,500, a repayment period of ten years, and a default rate of about 30 percent, estimates prepared by my staff suggest that the refugee program might save as much as tens of millions of dollars per year, which could free up funds necessary to resettle thousands of additional refugees."

"It may well be that upon further examination and exploration," Solarz said, "there are problems with this approach that render it either unwise or impractical... but this is an idea that does deserve serious consideration."

State Department and State Governments Concerned with Cost Shifts

"While we support the concept of expanding a refugee's responsibility in the resettlement process," said Priscilla Clapp, deputy assistant secretary for refugee admissions in the State Department's Bureau for Refugee Programs, "we have a fundamental problem with the idea of placing the lion's share of the financial burden on the refugee himself. The financial burden on the refugee should not be so great that it serves to delay his or her achievement of financial independence."

Clapp distinguished refugee admissions from other avenues of resettlement, like

immigration and parole, describing the refugee program as "a small, resource-intensive shelter for people who have suffered extreme persecution. It caters to a very specific group of people."

The loan fund proposal would not only shift costs to the refugees but to state and local governments as well, according to Bruce Bushart, New York state refugee coordinator. In recent years, he testified, "The federal government has steadily and deliberately shifted costs to states and localities, our average reimbursement per refugee dropping from around \$5,000 to closer to \$2,000. So that as we look at a loan program, we are concerned that under no circumstances should it create any further shift to states and localities. We are also mindful of the strong contribution of the private sector, and we are concerned that that resource not be overtaxed."

"States do have a very legitimate gripe," Solarz said. "The federal government mandates that, under the existing program, refugees be eligible for a variety of benefits but then provides only one year's worth of federal funding, which leaves states and localities stuck with the bill. I think that's very unfair."

But Solarz also said, "While I believe very strongly we have a moral obligation to permit these people to come here, I don't think we have a moral obligation to give them all sorts of federally funded benefits, particularly if that is making it impossible to permit other equally deserving refugees to come here."

Private Witnesses Offer Cautions and Variations on Alternative Funding Theme Monsignor Nicholas DiMarzio, executive director of Migration and Refugee Services for the U.S. Catholic Conference, said that he had "serious moral questions" about a refugee loan program. "Refugees are really victims," he said. "They are victims of social crises in their country. And victims are not the ones we want to blame for their problems. And certainly I'm not sure we want to have victims also pay for their rescue."

The voluntary agencies "are indeed concerned about the costs" of resettlement, DiMarzio said, "and we are convinced that we can do it for less than what is currently being spent." He said he favored "testing

a small pilot loan program" in order to assess its merits and demerits.

"If the larger concern is money," DiMarzio continued, "we have to look at the ORR [Office of Refugee Resettlement] budget," where substantial savings could be achieved by addressing what he called the "inappropriate use of welfare for employable refugees."

"The heart of the problem is that we are spending too much money in the support system for refugees," DiMarzio said. "I think we can spend less and accomplish the same goals that are part of this bill."

DiMarzio urged Congress to "seek to re-vamp refugee access to public assistance so that the majority of refugees can more quickly become self-sufficient.... We believe that the voluntary agencies should have a greater role in this process, instead of turning over most refugee families to the public welfare system 30 days after they arrive in our country."

Testing of a pilot refugee loan program was supported by Gary Rubin, director of national affairs for the American Jewish Committee, although he cautioned, "We should not use study as a delaying tactic but as a real means to find out whether loan programs can work."

Rubin raised several concerns about the Solarz proposal in its current form, relating to goals, expectations, incentives to repay, equity, and indebtedness. "The sole legitimate rationale for a refugee loan program would be the extra money it could raise to rescue and resettle more refugees," Rubin said. "If refugee budgets simply get cut by the amount brought in by the program, it is not worth the effort."

"If loans were administered by voluntary agencies with a portion of the repayment going to meet their costs," Rubin said, that would build additional incentives into the system to repay loans. But even with an efficient collection mechanism, he estimated that there would be a 30 percent recovery rate on refugee loans. Inflated expectations about repayment rates, he said, could doom the program to failure.

"Loan programs must enhance equity among refugee groups," Rubin said. "If repayment burdens or interest rates are too high or repayment periods too short, loan programs will favor refugees from wealthy communities over those with few or no resources." A

On July 11, Sen. Howard Metzenbaum (D-Ohio) introduced a bill to amend the Immigration and Nationality Act "to augment funds available for refugee expenses with funds paid by the refugees themselves." Although there have not been hearings or substantial discussions on the Metzenbaum bill, it is included here for purposes of comparison with the Solarz legislation.

SOLARZ BILL: "REFUGEE GUARANTEED LOAN ACT" (H.R. 3726)

Statement of Purpose: To establish a Federal program of refugee loan guarantees to encourage private lenders and nonprofit private institutions and organizations to provide loans to eligible refugees.

Program Requirements:

(1) Eligibility for Assistance: To be eligible for assistance, an individual (a) must be eligible for admission to the United States as a refugee, and (b) must be able and available to assume full-time employment within one year of admission.

(2) Eligibility for Admission: Refugees who are eligible for assistance may not be admitted to the United States if they do not participate in the loan program, unless they are sponsored privately by a U.S. citizen in lieu of participation.

(3) Limited Availability of Other Federal Assistance: For one year after the date of admission, a refugee admitted into the United States under the refugee loan program will be ineligible for (a) Aid to Families with Dependent Children, (b) Food Stamps, (c) Supplemental Security Income, and (d) federally assisted programs of refugee assistance. Such a refugee will be eligible for Medicaid and Medicare.

(4) Loan Maximum: A refugee admitted under the refugee loan program will be eligible for loans in an amount based on demonstrated need, which may not exceed \$8,500.

(5) Payment of Principal and Interest: Repayment of refugee loans, plus interest, will begin two years after the loan was incurred and must be repaid in not more than ten years. Terms of repayment will be established by the State Department. Loan repayment may be deferred if a refugee is enrolled as a full-time student at an institution of higher education.

METZENBAUM BILL: "REFUGEE REPAYMENT ACT" (S. 2842)

Statement of Purpose: To generate funds for the admission of an increasing number of refugees into the United States through (1) expansion of the existing system whereby refugees repay the cost of their transportation to the United States to include a larger portion of U.S. government expenditures for refugee resettlement, (2) the provision of funds to augment the annual federal appropriation for refugee operations, (3) the creation of a new "special refugee" class to provide for the admission of refugees who will be exempt from the new repayment provisions, and (4) improved tracking of refugees settling in the United States for the purpose of increasing the recovery of debts owed by refugees to the federal government.

Program Requirements:

(1) Consultation with Congress: The Administration will provide figures on the average federal cost of processing, transporting, admitting and resettling refugees.

(2) Repayment of Refugee Costs: Other than refugees whose expenses are being paid by private sponsors, refugees who are 18 or older will be obligated to pay the U.S. Treasury one-half of the average cost per refugee for that fiscal year. Preferential repayment terms will be given to disabled, elderly, or other designated refugees.

(3) Granting of Special Status for Certain Refugees: Certain individuals who (a) have been granted refugee status by the Attorney General, (b) have not been allocated an admissions number for that fiscal year, and (c) have paid the U.S. government one half of the average per capita costs of resettlement will be permitted to enter the United States as "special immigrants." Their admission would not be counted under the worldwide refugee admissions ceiling, but they would be eligible for assistance.

successful program must also "be sensitive to refugees' levels of indebtedness and take care not to burden them excessively."

As far as repayment of the loan was concerned, said Nguyen Ngoc Bich, secretary general of the National Congress of Vietnamese in America, "I may say categorically that most Vietnamese are very good at repaying debts--as long as it is made perfectly clear to them that this is a loan and not a charitable contribution." Bich called the Solarz proposal "a very imaginative response" to a situation of "growing refugee numbers" and "stringent budget constraints."

Bich recommended that the refugee loan program should be made "a bonus program--taking in refugees beyond and above the ceiling established for the funded program." Other possibilities, he said, "may include making the loan program applicable to the PIP (public interest parolee) program, the political prisoners program from Vietnam, and even to the PSI (private sector initiative) program. In this way the loan program becomes an incentive to these other programs."

"Anything piecemeal troubles me," said Mark Handelman, executive vice president of the New York Association for New Americans. "There may be a way to incorporate this [loan program] feature into a total approach that makes sense.... I really feel that this is an opportunity for us to perhaps bring together all aspects of the partnership in refugee resettlement and do a study of the program which has been in effect since the Refugee Act of 1980, recognizing that the world has changed greatly in ten years and we have learned a great deal and developed a body of knowledge and extensive practice in this field."

"I would recommend," Handelman said, "that over the next six months Congress work with representatives of the Administration, state and local governments, voluntary agencies, and refugee communities to evaluate past practices and new ideas in anticipation of fundamental reforms in our resettlement system."

"You have all raised very thoughtful and tough questions," Solarz told the private witnesses. "Some of you have advanced some constructive answers.... I can only tell you that I will not seek to advance any legislation along these lines unless and until I

am satisfied there are good answers to these questions, because the whole point is to facilitate the entry of additional refugees and not to significantly diminish the opportunities for those who are already here."

Update

° On August 1, the House Judiciary Committee approved by a 23-to-12 vote a substitute to H.R. 4300, the "Family Unity and Employment Opportunity Immigration Act of 1990."

The legal immigration bill would allow 300,000 family-related immigrant visas per year for the next five years and 65,000 employment-related visas per year until 1997, and 75,000 per year thereafter. The bill also includes "diversity" provisions that would allow 55,000 immigration visas per year starting in FY 94, principally from Europe and Africa. The substitute bill dropped earlier provisions relating to criminal aliens, which had been opposed by a coalition of nongovernmental organizations working on immigration and asylum issues. Many of these provisions, however, are included in a "crime" bill that has also passed the House Judiciary Committee. H.R. 4300 exempts refugees from annual immigration caps. Provisions of the bill with implications for groups in refugee-like circumstances include:

° allowing 15,000 visas per year for the next three years for "displaced aliens," including East Europeans who have resided in third countries since before October 1989, but who have not been firmly resettled, and up to 1,000 Tibetans in India and Nepal.

° providing Lebanese nationals with 250 and 750 additional visas for second and fifth preference, respectively, through 1995.

° removing the annual cap of 5,000 on the number of asylees permitted to adjust their status to that of permanent resident.

Congressional sources have informed Refugee Reports that Rep. Joe Moakley (D-Mass.), chairman of the House Rules Committee, intends to attach H.R. 45--known as the Moakley/DeConcini bill--to H.R. 4300,

when it reaches his committee on its way to a House floor vote.

The House version of Moakley/DeConcini, which passed that body on October 25, 1989 as a free-standing bill, would provide temporary safe haven for Salvadorans, Nicaraguans, and Chinese nationals in the United States, as well as generic language concerning the criteria for granting "temporary protected status" in the United States (see Refugee Reports, Vol. X, No. 11). The DeConcini version of the bill (which includes neither Chinese nationals nor generic safe haven language) has not been voted on by the full Senate. Moakley's strategy is to force the Senate to consider temporary safe haven in the conference that will resolve differences between the House and Senate versions of the legal immigration bill or to win concessions from the Administration to protect vulnerable nationalities, according to Congressional sources.

* Even after the landslide victory of the opposition National League for Democracy in the May 1990 elections, the military government in Burma has "maintained its hold on power and has continued to commit gross human rights violations," according to Asia Watch. These violations include the detention and forced conscription of refugees pushed back from Thailand in recent months.

On August 8, Burmese troops opened fire on a crowd of about 5,000 people marching in peaceful demonstrations in Mandalay, Asia Watch reported. At least four people were killed and several more wounded. Among other human rights abuses, the government has continued to arrest and torture political prisoners since the elections. Five prisoners reportedly were executed.

On July 5, according to Asia Watch, Thailand repatriated 45 Burmese asylum seekers, escorting them directly to a Burmese army post at Three Pagodas Pass. "The detainees were photographed and handed over," said the Asia Watch report, "at which point the Thai officer in charge said through an interpreter: 'We are handing them over as you demanded.'" Nearly all of the Burmese, including several women, were conscripted for porter service and one man was badly beaten.

* On July 16, and earlier on May 11, the State Department has transferred numbers of

refugee admissions for this fiscal year within the various regional ceilings, resulting in decreases for Eastern Europe, the Near East/South Asia, and Latin America and increases for the Soviet Union and Africa, as follows:

<u>Ceiling Changes</u>	<u>From</u>	<u>To</u>
Eastern Europe	6,500	6,200
Latin America	3,500	2,800
Near East/South Asia	6,500	5,000
Soviet Union	50,000	52,000
Africa	3,000	3,500

* On July 2, the INS resumed sending out notices to Nicaraguan asylum applicants who had been denied asylum, a practice which had been suspended since 1987. Denial notices are being sent out at a rate of 200-300 per week, according to an INS source. Between 12,000 and 14,000 Nicaraguans whose asylum applications have been denied are yet to be notified. Another 27,129 have yet to have their applications adjudicated.

Current Research

ASENCIO COMMISSION RELEASES REPORT ON UNAUTHORIZED MIGRATION TO THE UNITED STATES

U.S. immigration policy is "ambivalent and incoherent" and the laws on migration matters "outdated and in urgent need of reform," according to a major new report from the Commission for the Study of International Migration and Cooperative Economic Development. The report recommends that reform should begin by "centralizing the current widely dispersed government structure for handling immigration and refugee affairs in a single agency whose head reports to the President."

Congress created the bipartisan Commission as part of the Immigration Reform and Control Act of 1986 with the mandate to examine economic development responses to unauthorized migration from Mexico, Central America, and the Caribbean to the United States.

The twelve-member Commission, chaired by Diego Asencio, former ambassador to Brazil and Colombia and a former assistant secretary of state for consular affairs, "interpreted its mandate not as being hostile to

immigration--immigrants have constantly renewed and revitalized American society--but rather as seeking to reduce our undocumented population and the attendant potential for its continued exploitation," the report said. "Our work was also one of hope--of how to promote development, not enforcing restrictions."

Through a three-track process of consultations abroad, domestic hearings, and research, the Commission reached two "fundamental" conclusions:

- ° although there are other important factors, the search for economic opportunity is the primary motivation for most unauthorized migration to the United States; and

- ° while job-creating economic growth is the ultimate way to reduce these migratory pressures, the economic development process itself tends in the short to medium term to stimulate migration by raising expectations and enhancing people's ability to migrate.

"The issue for many countries is stark: they either export goods and services to create jobs at home, or they export people," said the 110-page report titled "Unauthorized Migration: An Economic Development Response." The report concluded that "expanded trade between the sending countries and the United States is the single most important long-term remedy to the problem" of unauthorized migration.

Commission Seeks U.S. Policy Coherence in Centralized Agency for Migration Affairs

In the near term, the report recommended that more attention should be paid to the migration consequences of foreign policy decisions, whether economic or political. "U.S. immigration policy has long been ambivalent and often incoherent," the commission said. "Beyond that, national preoccupation with immigration policy is, at best, a cyclical concern. More often than not, it responds to one or another dramatic, unanticipated emergency."

"Thus, events such as the large-scale exodus of Vietnamese and Haitian boat people, Cuban refugees, and the dispossessed of Central America have all driven U.S. immigration policy much more than measured

foresight."

"This is our principal institutional message," said the Commission, "that a governmental structure be designed to assure that the issue of migration receive as much attention as the consuming but often transient day-to-day concerns that otherwise dominate the policy process. We believe coherence could best be achieved by centralizing and streamlining the current widely dispersed government structure for handling migration and refugee affairs into a single agency whose head reports directly to the President."

The Asencio Commission gave that agency a name, the Agency for Migration Affairs (AMA), and a mandate--to provide "overall leadership and direction for U.S. immigration policy and...to coordinate closely with other government agencies whose decisions affect migration." The AMA, moreover, would assume operational responsibility for all immigration and refugee matters by taking over most of the functions and personnel of the Immigration and Naturalization Service (INS), the Bureau of Consular Affairs, the Bureau for Refugee Programs, and the asylum unit of the Bureau of Human Rights and Humanitarian Affairs. The AMA would have independent status like the Environmental Protection Agency.

"The development and administration of immigration policy is far too important to be relegated to a step-child agency such as the INS," the report said, "which falls uncomfortably within the Department of Justice and which historically has been beset with serious management and resource problems. Nor should these functions continue to be diluted among three different bureaus in the State Department where they too often are subordinated to short-term departmental policy considerations and compete unevenly for resources and attention."

The Commission report also said that INS's service functions--adjudications, naturalization, and admissions--were "incompatible" with its enforcement functions--investigations and Border Patrol. The report recommended leaving the enforcement functions within the Department of Justice while shifting the INS service functions to the new migration agency.

Such a split, according to the report, would provide the basis for developing "a more professional corps of officers and

policymakers as is the case for both Australia and Canada."

"The asylum process should be treated as the life and death matter it may well be for applicants whose fate is in the hands of examiners who interview them for only a few minutes before making their decisions," said the report. "For this purpose, the AMA should establish a cadre of officers... who would handle only asylum cases and whose education and continued training would have provided them with specific, current area knowledge of the countries of origin of the people they interview."

On July 27, the INS published asylum regulations that would create a corps of asylum officers not in a separate agency--as suggested by the Asencio Commission--but within the INS itself (see Refugee Reports, Vol. XI, No. 7).

AMA Should Also Look at Immigration and Refugee Laws for "Mixed Status" Migrants

The AMA mandate "should include a comprehensive review of current immigration and refugee laws and policies in an effort to ensure that they reflect current migratory patterns, needs, and realities," the Commission report said. All countries on the receiving end of voluntary and involuntary migration, including the United States, "will need to continue to examine their legal frameworks for addressing new patterns of migratory movements that involve persons not easily categorized as refugees or regular immigrants. Many of the existing migration and humanitarian mechanisms are outdated and in urgent need of reform, particularly as they relate to these 'mixed status' migrants."

The substantial influx of Central American and Caribbean migrants in the 1980s--and the "disparate treatment" of Cubans and Haitians, as well as Nicaraguans and Salvadorans--prompted extensive debate on the Executive Branch's implementation of the Refugee Act of 1980, the report said.

Tens of thousands of Cubans and Haitians migrated to the United States in the 1970s and 1980s, including 125,000 Cubans in the 1980 Mariel boatlift. Although Congress provided a special legalization program for Cuban and Haitian entrants in 1986, since 1982 the INS and the U.S. Coast Guard have operated an interdiction program to bar Haitian boat arrivals and return them to

Haiti.

The number of Central American asylum seekers jumped dramatically in the late 1980s and although, the report noted, most would agree that Central Americans were migrating for a variety of reasons, "including armed conflict, political repression, and deteriorating conditions," more than 50 percent of Nicaraguan asylum applicants were approved over the last decade, while fewer than five percent of Salvadoran applicants were granted asylum.

The debate over implementation of the Refugee Act of 1980 "undoubtedly will continue in the 1990s and lead to more calls to expand the legal categories of international migrants for temporary or permanent admission," the report said. "Suggestions have included temporary safe-haven status, special humanitarian migrants along the lines of the Australian and Canadian models, and foreign policy migrants."

Development Approach is Particularly Important for Central America Given that two million people have been uprooted by armed conflict and political instability in Central America, the development approach to migration problems is "particularly important" in this region, the Commission concluded.

In May 1989, the United Nations convened an International Conference on Central American Refugees (CIREFCA) in Guatemala City, which delineated mechanisms for aiding refugees and displaced persons within a broader framework of regional peace and development efforts. "Regrettably, there has been little follow up on CIREFCA by the United States," the report said. (See Refugee Reports, Vol. XI, No. 7.)

The Commission recommended that the United States "should channel more funds through UN agencies, such as the UN High Commissioner for Refugees and the UN Development Program...[and] should devote more attention and resources to voluntary repatriation and reintegration efforts in Central America, particularly in the areas of counseling and the establishment of appropriate mechanisms to monitor the well-being and safety of returnees."

A limited number of copies of "Unauthorized Migration: An Economic Development Response" may soon be available by writing the Superintendent of Documents, U.S. Gov-

ernment Printing Office, Washington, DC 20402. (As of this writing, the GPO had not yet placed them in stock.)

Resources

DEMOGRAPHIC STUDY SURVEYS 15,000 BORDER CAMBODIANS

In view of the eventual repatriation of more than a quarter of a million displaced persons living on the Thai-Cambodian border, the Ford Foundation supported a survey of more than 15,000 Cambodians in three border camps, seeking answers to some basic questions: "Who are these people?.... What part of the country are [they] from?.... What percentage of the heads of families are widows?.... What kind of work did people do before the advent of the Khmer Rouge era? Do most people want to go back to the places of their birth?"

Written by James F. Lynch, "Border Khmer: A Demographic Study of the Residents of Site 2, Site B, and Site 8" is based on a survey of 15,525 respondents who, along with their accompanying relatives, comprised 25 percent of total civilian camp population on the border. About 9,000 questionnaires were completed in Site 2, which is affiliated with the Khmer People's National Liberation Front (KPNLF); another 4,300 came from Site B, affiliated with Prince Norodom Sihanouk; and 2,500 questionnaires were completed in Site 8, controlled by the Khmer Rouge.

Since 1982, these three resistance factions have been formally allied in the Coalition Government of Democratic Kampuchea, which is engaged in a civil war with the Vietnamese-backed government in Phnom Penh, headed by Prime Minister Hun Sen.

While the study presents detailed statistics on age, sex, marital status, date of arrival at the border, occupation, educational level, and geographic preferences for repatriation, "Border Khmer" resists the temptation to offer sweeping conclusions or broad recommendations. Instead, Lynch lets the numbers, by and large, speak for themselves.

Accompanied by 12 personal profiles of camp residents—including a teacher, noodle shop owner, seamstress, medic, housewife,

farmer, Chinese entrepreneur, and widow—the statistics tell a vivid story:

- ° 23 percent of the inhabitants of the three camps are females of childbearing age (15-44).
- ° 36.7 percent of the populations in Site 2, Site B, and Site 8 is under 9 years old. More than half are under 20.
- ° The average family in the three camps comprises 4.5 people.
- ° 79 percent of all respondents were married; an additional 19.8 percent were widowed.
- ° Half of the respondents (including 67 percent of females) had no education in Cambodia at all; 28 percent had 1-3 years of schooling. Only 2 percent had 10 or more years of education.
- ° About 55 percent of respondents in Site 2 and Site B, and 80 percent in Site 8, arrived at the border in 1979. Site B had the highest percentage of new arrivals since 1985 (13.8 percent) and Site 8 the lowest (2.5 percent).
- ° The vast majority of respondents in each camp have had no contact with relatives in Cambodia since before their arrival on the border.
- ° 47 percent of respondents were born in Battambang (Cambodia's westernmost province, which once shared a 165-mile stretch of border with Thailand, Battambang recently was redistricted by the government) and nearly 59 percent named Battambang as their preferred destination for repatriation.
- ° More than 60 percent of respondents in all three camps (over 70 percent in Site 8) said that they intended to work as farmers upon returning to Cambodia. Roughly 10 percent said they would work as vendors.
- ° In Site 2 and Site B, 40-50 percent of respondents said they had been farmers during the Sihanouk and Lon Nol eras (1954-1975). Nearly 90 percent said they were farmers under Pol Pot.
- ° Nearly 60 percent of respondents in Site B cited their occupation in the camp as housewife (89 percent of Site B respondents were female). Only about 2 percent gave that as an occupation under Sihanouk or Lon Nol, and 0.1 percent (3 respondents out of 4,320) said they had been housewives under Pol Pot.

UNICEF REPORTS ON THE STATUS OF WOMEN AND CHILDREN IN CAMBODIA

Two decades of regional conflict, genocidal brutality, foreign occupation, and civil war in Cambodia have left the country "impoverished with ruined schools, health facilities and factories, a chronic lack of medical and educational equipment and supplies, still too few adequately trained teachers and health workers, and an overall weak economic and social infrastructure," according to a new book published by the United Nations Children's Fund (UNICEF).

"Moreover, the demographic structure of the population has been dramatically altered," the report said, noting that "64 percent of adults are women and nearly half the population is under 15 years of age." With so many men dead or away fighting, women also head some 35 percent of the households.

The UNICEF report, titled "Cambodia: The Situation of Children and Women," suggests that this predominance of women and children in Cambodia's population "has major implications for the country's basic services, economy, and labor force."

In a primarily agrarian country where 60 percent of farmers are female, "women's economic role is now extremely important," the report said. "They also raise supplementary income in rural areas by other seasonal or year-round activities, including the production of handicrafts."

One third of the state workforce are women, according to UNICEF, and in some light industries--textile mills, salt factories and rubber production--women outnumber men. But the report notes that in the state hierarchies, "the higher the rank the lower the female/male ratio." Increasing numbers of women are also involved in the formal and informal private sector.

"The high birth rate of 4 percent means that women are especially important to child survival and development, but bearing and raising large numbers of children with their physiques weakened by hardship and malnutrition (in addition to their onerous economic responsibilities) takes a heavy toll women's health," said the UNICEF report. Health services "have expanded greatly since 1979, [but] usage by rural women is still limited, not only because they are working when the facilities are open, but also because of

distance, lack of transport, and low awareness of preventive health needs."

Orphaned, Abandoned, Handicapped, and Working Children at Special Risk "The conditions of abject poverty" in Cambodia, said the UNICEF report, "the breakdown of the traditional extended family, and the lack of knowledge and experience concerning basic health, hygiene and child care place the present generation of children at extremely high risk of physical, mental, and social deprivation." Those in "especially difficult circumstances" include orphaned, abandoned, handicapped, and working children.

In 1979, after nearly four years of Khmer Rouge control, Cambodia was invaded by Vietnamese troops who installed a friendly government in Phnom Penh. One of the many tragic legacies that government inherited was nearly one quarter of a million orphans. The Ministry of Social Action estimates that the number of orphaned and abandoned children is still as high as 192,000. Of these, 3,400 children are living in 26 orphanages in 16 provinces. The rest are living with their extended families or with other families, mostly in rural areas.

"Orphanages are usually housed in derelict and abandoned buildings and the orphans consequently suffer from serious problems relating to the poor living conditions, deficient sanitary facilities, and lack of equipment, materials, and trained personnel," according to the report. "Orphans range in age from infancy to as much as 24 years. Handicapped persons of all ages are also housed in the same institutions."

While no comprehensive surveys of childhood disability have been carried out since 1979, and virtually nothing is available on the situation prior to that time, a limited assessment of two provinces suggests that polio is the main cause of childhood disability in Cambodia, followed by meningitis and cerebral palsy. "There are several provinces," said the UNICEF report, "where armed conflict has given rise to thousands of children and adults with amputated limbs."

Copies of "Cambodia: The Situation of Children and Women" are available from UNICEF, UNICEF House, 3 UN Plaza, New York, NY 10017.

PATTERNS IN THE ADJUSTMENT OF SOUTHEAST ASIAN REFUGEES AGE 16 AND OVER--1989

Length of Residence in Months

	0-6	7-12	13-18	19-24	25-30	31-60
Labor force participation	17.9%	26.1%	30.8%	34.5%	34.2%	30.3%
Unemployment	*	38.1%	16.2%	13.3%	12.8%	2.7%
Weekly wages of employed persons	*	\$203.98	\$215.33	\$206.57	\$206.13	\$219.74
Percent in English training	46.2%	41.0%	31.8%	37.9%	25.6%	14.8%
Percent in other training or schooling	17.9%	19.9%	21.1%	17.2%	23.9%	28.7%
Percent speaking English well or fluently	30.8%	33.5%	33.6%	36.0%	36.0%	51.3%
Percent speaking no English	28.2%	20.5%	26.0%	14.0%	17.3%	10.7%

* Base number of persons in this category is less than 10.

Source: U.S. Office of Refugee Resettlement, *Report to the Congress*, January 31, 1990.

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MEXICO DEPORTS 80,000 IN FIRST SIX MONTHS OF 1990 NEW LAW RECOGNIZES "REFUGEES," BUT WILL IT PROTECT CENTRAL AMERICANS?

[This article, written by *Refugee Reports* co-editor Bill Frelick, is based on a site visit to Mexico in August. Frelick, representing the U.S. Committee for Refugees (USCR), visited sites along Mexico's northern and southern borders, as well as Mexico City. He interviewed refugees, Mexican, Guatemalan, Nicaraguan, and U.S. government officials, nongovernmental agency personnel, and UNHCR officers. He was accompanied for parts of the trip by Sara Martinez of the Santa Chirino Amaya Refugee Committee in Los Angeles and Arturo Solis of the Center for Information and Migration Studies in Reynosa, Tamaulipas. *Refugee Reports* subscribers will soon receive a full USCR report of the site visit.]

Although Mexico just introduced the term "refugee" for the first time into its law code, legally recognizing as refugees people displaced by war, it is also now escalating its efforts to apprehend and deport people crossing into Mexico from war-torn Central America. This newest mixed signal of law and practice suggests either that Mexico is on the verge of a breakthrough that could herald a more generous response to Central Americans fleeing violence, or that the gap between rhetoric and reality is about to widen still further.

The increase in deportations as well as heightened legal recognition of refugee rights can both be traced to the inauguration of a new president, Carlos Salinas de Gortari, in 1989. That year also brought increased attention by the U.S. Immigration and Naturalization Service (INS) to Central American migration in Mexico (see box, p.4). In the first year of the Salinas Administration, the number of deportations jumped 500 percent from the previous year, and could double again from 1989 to 1990:

YEAR	APPREHENSIONS AND DEPORTATIONS
1988	14,000
1989	85,000
1990 (first six months)	80,000

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A U.S. government official in Mexico projects that 160,000 Central Americans will be deported from Mexico by the end of 1990. By contrast, 12,133 Central Americans were deported from the United States in FY 89.

Statistics, however, only tell one part of the story. The deportations are taking place in the absence of any meaningful mechanisms for determining refugee status, as illustrated by the absence of any distinction between apprehensions and deportations in the statistics cited above. There is no administrative or judicial hearing prior to deportation in which a person faced with deportation has an opportunity to claim asylum. In a very few cases, the UN High Commissioner for Refugees (UNHCR) representative in Mexico has intervened, but, for the most part, such interventions have taken place on behalf of persons who had not yet been apprehended and detained.

For nearly everyone apprehended, the result means being taken to the border and dumped into Guatemala. This happens for Salvadorans, Nicaraguans, and Hondurans, as well as Guatemalans. Those who are apprehended in the north or central portions of Mexico are jailed until a bus arrives to carry them to the Guatemalan border. Sometimes they are detained again in Mexico City or Tapachula (in the southernmost state of Chiapas) until the buses can be filled.

The UNHCR protection officer in Chiapas told us that the *Servicios Migratorios* authorities had only called him twice in the past year to assess asylum claims in Tapachula (the final staging point for nearly all of the deportations).

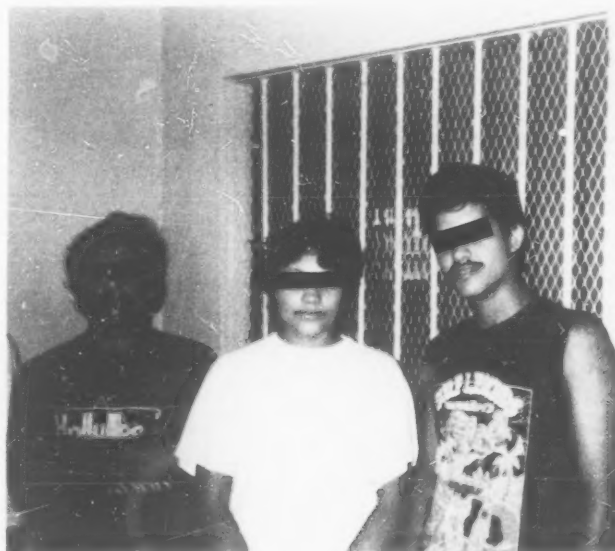
Conditions of Detention We visited a group of Salvadorans and Nicaraguans in the municipal jail in Tijuana who had been held in that facility for 10 days awaiting transport (despite *Servicios Migratorios* officials' assurances to us that no one is held longer than 36 hours). They expressed fear about being detained with Mexican criminals and anxiety about not having been informed by the authorities about their situation.

One of the detainees, a 16-year-old Nicaraguan girl, fell ill shortly after being imprisoned. After three days of abdominal pain, "Teresa" was sent to the local hospital, where she had a miscarriage. After two days there, she was returned to the jail. Teresa was still visibly pale

and weak at the time of our visit. She told us that she could not eat the food (one meal a day of beans with hot chile peppers), and that the jailers would not give her milk or pills for pain.

Conditions of detention vary from place to place. Following protests by Mexican groups about jail conditions in both Matamoros (just across the border from Brownsville, Texas) and Mexico City, "migration stations" have been established exclusively to hold aliens pending deportation. Information about these facilities is hard to come by, however, and the authorities have resisted efforts by nongovernmental bodies (including *Refugee Reports*) to visit them. Since those who are held in these facilities are deported, it is difficult to interview former detainees. When we did locate a Salvadoran who had been detained at the migration station in Mexico City, he refused to talk about it, saying only that conditions were "not ideal." Since he either had returned to Mexico after having been deported or had somehow escaped from the migration station, his fear was understandable.

Abuse and Terror on the Journey North We interviewed other Central Americans who describe a situation that is highly arbi-



"Teresa" in the municipal jail in Tijuana. Her brother, a Nicaraguan, is to her left; a Salvadoran to her right. USCR/B. Frelick

trary, tainted by corruption, and in which the threat (or reality) of violence is never far away.

"Rosa," who fled from El Salvador on January 6 of this year, told us of having been caught near Tapachula by Mexican authorities in civilian clothes [the federal judicial police operate in plainclothes]. The women in her group were separated from the men, stripped, beaten, and raped. At that point, Rosa said her captors saw wounds on her legs, decided she must have been an FMLN (Farabundo Marti National Liberation Front) guerrilla, and turned her over directly to Guatemalan military officers. Rosa admitted to them that she had been wounded in the FMLN's November offensive and asked if they were going to kill her. A Guatemalan officer told Rosa he would spare her life because she showed courage. She fled again to Mexico.

Some from the other side of the Salvadoran civil war have fled as well. We interviewed "Carlos," a young soldier who had been in Mexico only 25 days. A member of the Fourth Brigade in El Paraiso, Chaltenango, Carlos deserted after he was ordered to "take" a man who had been denounced as a guerrilla. But this was a man whom Carlos had known for many years, and he didn't believe that he was a guerrilla. Carlos told his friend about the order to pick him up, then shed his uniform, threw his gun in the river, and fled the country, leaving behind his wife and baby. Carlos entered Mexico with two other army deserters. Uniformed Mexican authorities in Chiapas found them and caught the other two, but Carlos fled into the woods. The last Carlos saw of his companions, they were tied by the thumbs with their hands behind their backs suspended by a pole through the back of their arms.

Carlos walked the rest of the way to Queretaro, northwest of Mexico City, where we interviewed him. Although he eluded the Mexican authorities, he had no such luck with criminals preying on the undocumented. Carlos was assaulted and robbed in Chiapas, losing his money and rings.

Noncombatants fleeing the war in El Salvador fare no better in seeking asylum in Mexico. We interviewed "Ana," a Red Cross worker in Mexico City who had not been a combatant in the November offensive, but who was nevertheless denounced by an



After being raped, "Rosa" was turned over to the Guatemalan army. USCR/B. Frelick

anonymous source to the army. Ana and her husband fled the country on April 12 and spent three days crossing Guatemala. After paying someone 150,000 pesos (about \$54) to take her across the Suchiate River marking the Mexican border with Guatemala, Ana was caught near Tapachula while trying to board a train. Men wearing dark blue uniform pants [the kind worn by the municipal police] drove Ana and her husband around Tapachula in a truck without a license plate until they paid a bribe and were released. She then decided to walk north along the train tracks as a way of avoiding arrest.

Ana told us she only got as far as Huixtla, about 30 kilometers north of Tapachula, when a group of men with machetes raped her and robbed and severely beat both her and her husband. A Mexican family found them and took them to the hospital, where, posing as Mexicans, they spent 15 days recovering from their wounds. After their release, the Mexican family took them in and sheltered them for another week before putting them on a train to Tierra Blanca in Veracruz.

In the middle of the night, the train stopped. Men, whom Ana called "narcotics police," boarded the train, supposedly

(continued on page 6)

OPERATION HOLD THE LINE: U.S. IMMIGRATION SERVICE INVOLVEMENT IN MEXICO

Stepped up enforcement by the U.S. Immigration and Naturalization Service (INS) along the border with Mexico in early 1989 coincided with the start of the Salinas Presidency. In February 1989, the INS announced "Operation Hold the Line," boosted the U.S. Border Patrol presence along the Mexican border, put into effect expedited asylum proceedings, and ordered detention and quick deportation of those denied asylum (see Refugee Reports, Vol. X, Nos. 1, 2, 3, and 5). At that time, the INS also became more actively involved with Mexican authorities, particularly its counterpart, **Servicios Migratorios**. An internal memo setting forth the INS plan as early as December 1988 listed its components:

- ° Press State Department and use INS liaison to secure the assistance of Mexico and Central American countries to slow down the flow of illegal aliens into the United States.
- ° Enhance Anti-Smuggling presence and use of informants to develop additional information on organized trips.
- ° Request State Department to determine ways in which the Mexican and Central American Governments can assist efforts to ascertain scope of Central American migration to the United States.

An internal INS report, dated February 16, 1989, entitled "Enhancement Plan for the Southern Border," gave detailed instructions on how the effort would be carried out. The memo stated that:

- ° two Intelligence Officers, two Border Patrol Agents, two Anti-Smuggling Agents, and an Immigration Officer from Mexico City District Office will be detailed to Guatemala before the public announcement of Operation Hold the Line. These detailees will be sent to Guatemala City and Tecum Uman, Guatemala, which is the major crossing point from Guatemala to Mexico. This detail to a foreign territory will be cleared through the Department of State. To augment this detail, INS Officers duty-posted to Mexico City and a team of three officers detailed to Monterrey

will also provide information on smuggling patterns and alien movement through their areas of jurisdiction....

The intelligence gathering teams in Guatemala, Mexico City, and Monterrey will continue to provide predictive intelligence to ensure that the Border Patrol's mobile corridor and Anti-Smuggling resources are properly deployed so as to be most effective.... Additionally, the INS District Office in Mexico City will continue liaison already established with the new director of Mexican Immigration to address the issue of third country nationals transiting Mexico en route to the U.S.

- * The INS Intelligence Program will continue on-going liaison with other government agencies, particularly the CIA, DIA, Department of State to monitor changes in those conditions in source countries which most heavily impact on emigration.... The information provided by these agencies will be analyzed in conjunction with statements provided by aliens during debriefings.

By late February, the operation was in full swing. Memoranda to the INS Central Office from E. Michael Trominski, the INS district director for Mexico City, give detailed intelligence on movements of undocumented aliens in Mexico. The following excerpts show the extensive INS involvement in Mexico, as well as the high level of cooperation with Mexican Immigration Services:

- ° _____ reported at 0730 this AM from Veracruz, Veracruz. He met last night with the Mexican Immigration Regional Delegate, who he reported as 110% effective at his job.... He is aware of the purpose of this project and has promised to cooperate.

_____ further reported that no major loads were observed en route. At the Veracruz bus station no large groups were encountered, but a number of family size groups, apparent Central Americans, were seen being escorted by apparent police or security guards.

- ° _____ arrived in Brownsville yesterday PM to receive a briefing from ASU [Anti-Smuggling Unit]; he was then

to proceed to Matamoros to conduct activities. Separately, _____ reported that he was contacting two informants, to be sent to Tapachula, Chiapas, to meet with _____ for information gathering in Guatemala. Both informants are still active in alien smuggling, and are very knowledgeable about the overall activity.

° _____ advised this office of Mexican Immigration's arrest in Monterrey of an Uruguayan believed to be a permanent resident, who smuggles Colombians, Guatemalans, and Nicaraguans. _____ will interview at Mexican Immigration detention today.

° Contacts have been made at the bus stations in Matias Romero, Acayucan, Veracruz, and Arriaga, to provide further information on flows. The word is out that a Mexican Immigration inspector is travelling the area busting loads.

_____ will arrive in Tapachula tonight. _____ will work the bus station and airport, and wait for _____'s arrival to make contact with Mexican immigration.

° _____ will also interview two Pakistanis arrested at the Mexico City Airport with false NIVs [Nonimmigrant visas], as well as a Honduran arrested escorting four Chinese. The Honduran at first claimed to be a native of Belize, naturalized in the U.S., but our records check disproved this. It is probable that all three may tie in to ongoing ASU investigations.

° _____ reported making contact with Mexican Immigration subdelegado Tuesday night with ASU _____. The subdelegado was very cooperative; a dinner was held last night with all Mexican Immigration personnel. All the small hotels in Matamoros were visited, about 16, and all are overflowing with Central Americans registered as Mexicans. _____ was approached yesterday on the streets 4 times by smugglers offering their services. While working the Mexican side of the river, _____ was invited to join a load of 30 by a smuggler. The bus

depot is being worked by Mexican Customs and other agencies, all on the take. The bribe situation has caused the smugglers to off-load groups outside of Matamoros and to get them downtown by other means, avoiding the bus station.

° _____ reported last night from Tampico. He had an extensive meeting yesterday with the Mexican Immigration subdelegado in Tuxpan.... Cooperation is good with the Mexican Federal Judicial Police, but not with state or local authorities.

INS District Director Trominski spoke about the continuing involvement of the INS in Mexico, when we met with him in Mexico City. He said that the INS is involved in training its Mexican counterparts in detecting fraudulent documents. The interchange of information works both ways, according to Trominski, with Mexican Immigration providing the INS with information on alien smuggling operations. "Cooperation on immigration enforcement is expanding," said Trominski. "Mexican Immigration is vigorous in its enforcement of the law."

Trominski, who also serves as regional immigration attache for Latin America, observed that cooperation has improved at the higher levels of government, as well. A working group of the U.S.-Mexico bi-national commission has been established to deal with migration issues. Discussions thus far have focused on many of the sensitive problems arising from the migration of Mexican nationals, including detention of material witnesses, temporary agricultural worker visas, and at the top of the agenda, reducing border violence.

Trominski generally does not view Central Americans as refugees. "We have interviewed refugee applicants in Central America [for admission to the U.S. as refugees]. They don't fit into the program. It's hard to get a good solid claim." Trominski said that most approvals for U.S. refugee admission in the last four years have been for Nicaraguans, but he predicted that fewer would be approved since the elections. Of Salvadorans, Trominski commented, "We won't let FMLN types into the United States as refugees." He sees the Central American flow as economic. "Sending people home generally is not a bad thing to do," he said.



"Carlos" saw Mexican authorities bind his companions by the thumbs. USCR/B. Frelick

searching for drugs [federal judicial police are responsible for narcotics enforcement and would have had authority to stop a train]. They robbed the Central Americans on board of their watches and money and took about 50 of them off the train. Ana saw one man being hit in the genitals and another whose head was broken open. Ana and her husband were not arrested at that time, however, and managed to arrive in Mexico City sometime in May. Their troubles did not end there, however.

After several weeks on a job that did not require work papers, Ana's husband was arrested along with a Mexican and a Honduran co-worker as they walked down the street. They were held for three days in a clandestine jail run by the federal judicial police, where they were accused of being involved with drugs. There was no evidence of that, but the federal judicial police discovered that the Central Americans were undocumented. They accused the Mexican of being a *pollero*, a smuggler, and demanded a bribe of 6 million pesos (about \$2,150) from his family for his release. They turned Ana's husband over to *Servicios Migratorios*. Ana hadn't heard from him since his arrest. [If sent to the Mexico City migration station, it is almost certain he has been deported.]

Although we asked high government officials to allow us to visit the migration station where Ana's husband would have been taken, permission was not granted.

New Refugee Law Although Mexico has still not acceded to the 1951 UN Convention and 1967 Protocol on refugees, it did on July 17, 1990 enact amendments to its "General Population Law" that incorporate a broad definition of "refugee" along the lines of Central America's Cartagena Declaration, a definition which would include a larger set of forced migrants than that comprised by Convention Refugees fleeing persecution or a well-founded fear of persecution. According to Article 42, VI of the law, "refugees" are defined as persons who:

have been threatened by general violence, foreign aggression, internal conflicts, massive human rights violations, or other circumstances that have greatly upset public order in their nation of origin.

The new law would appear to be a remarkable advance. It has leapfrogged over the UN Convention definition that rests on the notion of individualized persecution (the



*Her husband probably deported, "Ana" now tries to manage on her own in Mexico City
USCR/B. Frelick*

operative definition in U.S. refugee law as well). Instead, it has embraced a definition more akin to that which operates in Africa, where victims displaced from their homelands by generalized violence, including internal conflicts, are accepted--and protected--en masse as refugees.

Combined with recent proclamations by President Salinas against corruption and orders to scale back federal judicial police roadblocks in the south, the new law opens the possibility that refugees fleeing civil war in Central America may find protection in Mexico.

As yet, however, regulations have not been promulgated that will spell out how the changes in law will be implemented. At the time of our visit, there was a great deal of speculation as to the effect of the new law on future determinations of refugee status, but no one inside or outside of government claimed to have any knowledge of what the mechanism would look like.

Fear and Suspicion Remain Among the undocumented Central Americans in Mexico City whom we interviewed, most were unaware of the new law. "Those who talk about it are the organizations that work with refugees, not the refugees themselves," said one Salvadoran. But what little has trickled down has, in some cases, been tinged with the fear of discovery.

"The new law can't help refugees now," said one. "You will need to pay money and go to jail if you open your house and have a refugee there."

The emphasis given the changes in the law by at least portions of the Mexican press has been on harsher penalties for those who harbor and assist undocumented aliens, not on the new refugee definition. In Chiapas, the day following the publication of the new law in the Official Daily, the front page headline of Noticias de Chiapas, the local paper, shouted, "They Will Punish Traffickers of Illegals." The accompanying article made no mention of a new refugee definition, of protection against forced return of refugees, nor any of the other humanitarian provisions of the new law. Exclusive attention was paid to Article 118--quoted in full--that imposes ten year prison sentences and the equivalent of 10,000 days of the Mexico City minimum wage on:

"those who by one means or another, without legal permission from a competent authority, intend to bring, or bring illegally one or more foreigners to Mexico or another country, or house them, or transport them through national territory with the purpose of hiding them from migratory inspection."

While some papers were sending this message to the public, certain delegates of *Servicios Migratorios* were sending the same message to nongovernmental organizations (NGOs) that assist undocumented Central Americans. The local delegate of *Servicios Migratorios* sent a copy of the new law with Article 118 underlined to one of the nonprofit agencies in Chiapas assisting Central Americans.

Some of the humanitarian organizations are frankly worried about the impact of the new law on their ability to assist and protect Central Americans. These groups are skeptical that this provision of the law will be used against the *polleros*, since it does not specifically address those who harbor or transport undocumented aliens for profit.

As one Mexican NGO representative said, "Everybody knows who the *polleros* are, that is their work. [Article 118] is more likely to be used against the NGOs. In [his town], the *polleros* pay the federal judicial police a monthly payoff. In [the next town], the *Servicios Migratorios* delegate has his own gang of *polleros*."

In our travels along both the southern and northern borders, it was not at all difficult to identify the *polleros*. When we crossed the Suchiate River by raft, following the most common route taken for the crossing of undocumented Central Americans into Mexico, the man who took us across spoke quite matter-of-factly about the payoffs he made to the authorities standing just off the river bank, allowing him to continue his profitable trade.

The real impact of the new law will depend on how the *Servicios Migratorios* agents on the Suchiate river bank understand it; if it causes nonprofit groups or individual families to fear coming to the assistance of needy strangers; whether or not asylum seekers themselves feel they can come forward and receive protection rather than further risks to their lives.

Recent Developments

FIRST WAVE OF DISPLACED PERSONS IN THE MIDDLE EAST IS GOING HOME; NEXT WAVE COULD FACE NEW PROBLEMS

Since Saddam Hussein invaded and annexed Kuwait on August 2, more than 800,000 Arabs and Asians have left, or found themselves stranded outside of, Iraq and Kuwait. They include about 240,000 Kuwaiti refugees in Saudi Arabia and other Gulf states, and around 500,000 Saudis, Egyptians, Jordanians, Yemenis, and Syrians who have returned home. But it has been the 150,000 South and Southeast Asians who have found the way home to be especially long and precarious.

Having lost their possessions and negotiated an arduous 1,000-mile overland trip from Baghdad, many of the Asian nationals--from Bangladesh, India, Pakistan, Sri Lanka, Thailand, and the Philippines--found themselves trapped in a barren and inhospitable no-man's land along the Jordanian-Iraqi border. By early September, an estimated 105,000 people, mostly Asians, were "hostages of the desert," as one relief official put it.

Temperatures in the makeshift camps could reach 120 degrees during the day and drop to near freezing at night. As of September 7, one month after the exodus began, 40 percent of the people in Shaalan One, the largest border camp, still had no shelter, according to the UN Disaster Relief Organization (UNDRO). Blankets, food, medicine, and water were all listed as "urgent needs" in an UNDRO situation report.

But equally important to the task of meeting immediate survival needs of the evacuees, relief officials agreed, was getting them out of the desert and back to their homelands. On September 6, the International Organization for Migration (IOM), issued an appeal for \$60 million "to handle the initial exodus of 100,000-200,000 people." The first stage of the repatriation effort, according to an IOM statement, "is to transport the two largest Asian groups stranded in Amman--40,000 Bangladeshis and 5,000 Sri Lankans. The governments of Sri Lanka and Bangladesh have no resources to finance the repatriation of

such large groups."

The worldwide response to the relief and repatriation effort has generated more than \$245 million in contributions, including \$28 million from the United States. Most of the people in the Jordanian border camps have been moved to more hospitable facilities in Azraq. More than \$45 million in cash and \$8 million in aircraft has been pledged to IOM, and more than 52,000 people were flown out of Jordan by the end of September.

Relief officials say that the situation in Jordan and Turkey, which has seen an influx of about 40,000 displaced persons, is no longer life-threatening. Movements out of Iraq and Kuwait appear to have slowed in recent days. But the deluge, they say, could resume at any moment. There are credible reports that at least 400,000 Egyptians and Asians have been displaced from their homes and jobs, and are poised to cross into Jordan and Turkey. With repatriation costs averaging between \$500 and \$700 per person, additional needs could run in the hundreds of millions of dollars.

Repatriation, however, may not be an option for an increasing number of people fleeing Iraq and Kuwait. Kuwaiti and Iraqi nationals are the obvious examples. But there are others. The UN High Commissioner for Refugees (UNHCR) notes that persons from refugee-producing countries (including Sri Lanka, Vietnam, China, Romania, and Sudan) who have been working in the Gulf region now may be unemployed but unwilling to return home due to a well-founded fear of persecution. In addition, UNHCR reports, there are "an undetermined number of recognized refugees who left first-asylum countries to work in the Gulf region and now will be obliged to return to these countries of first asylum, often to refugee camps where they cannot work and will require assistance." Two examples UNHCR gave were Ethiopians and Somalis.

Displaced Persons and Others at Risk Inside Iraq and Kuwait In addition to the 400,000 displaced Egyptians and Asians, there are many other groups inside Iraq and Kuwait who are finding their situation increasingly desperate. These include an estimated 2 million foreign nationals and 600,000 Kuwaiti citizens.

About 6,000 Westerners, including 1,000 Americans, are either being held hostage by



Even though the evolving famine in Sudan is at an early stage, many of the southern Sudanese refugee children arriving now in Ethiopia already show signs of acute malnutrition. USCR/R. Winter

the Iraqis or are evading capture. Iraqi leader Saddam Hussein has begun to deny food rations to foreign nationals--he has particularly singled out Asians--and insisted that their own governments must feed them.

Kuwaiti refugees fleeing into Saudi Arabia tell of Iraqi soldiers searching house to house for foreign nationals and suspected Kuwaiti resisters. Houses have been confiscated or destroyed, and some people have been executed in the streets. "The people are frightened. There is shooting and killings," one refugee told the New York Times. "The Iraqis are killing Kuwait. They are killing our country."

WIDESPREAD FAMINE THREATENING SUDAN LARGELY IGNORED; OPERATION LIFELINE II COLLAPSING

According to a U.S State Department Famine Early Warning System (FEWS) report, widespread drought in Sudan's major food-growing areas could lead to a "major, nationwide food shortage of 1984 proportions." More than 150,000 Sudanese starved in 1984 because of drought. Another 250,000 died in 1988 as a result of drought and civil war.

Despite the early warning, there has been relatively little international attention or response to the evolving famine in Sudan. According to the U.S. Committee for Refugees (USCR) director Roger Winter, who has recently returned from visiting Sudanese refugee camps in western Ethiopia, the lack of international response so far is not new or surprising. "In both 1984 and 1988, early warning of an impending catastrophe was ignored. This time there can be no excuse. The warning comes from the U.S. government itself. The international community must act now to save lives."

The FEWS report added, "The ability of people to cope is being overwhelmed.... Reports are now coming in of substantial and abnormal movements of population from their homes."

Addressing the House of Representatives on September 21, Congressman Frank Wolf [Dem. VA] said, "'Famine of 1984 proportions.' 'Ability to cope overwhelmed.' These are code words, Mr. Speaker, and they mean that hundreds of thousands of people may die. And no one seems to be paying attention."

Winter said that even now, when the famine in Sudan is at an early stage, Sudanese refugees arriving in Ethiopia show signs of acute malnutrition. "Many of the children I saw in the refugee camps in Ethiopia are no more than skin and bones," Winter said. "It is hard to imagine what conditions will be like when the worst of the famine strikes."

The current drought comes on top of already existing problems associated with getting aid to the more than 4.5 million southern Sudanese who have been displaced by the war (see Resources). In 1989, Operation Lifeline Sudan (OLS I), a UN-coordinated relief effort to get aid to displaced southerners in both government-held areas and in areas controlled by the Sudan People's Liberation Army (SPLA), helped prevent a repetition of the 1988 tragedy in Sudan. However, this year's effort to aid the displaced, OLS II, has met with substantially less international support than OLS I and is on the verge of collapse. According to Winter, "that may be in part because OLS appears to have abandoned humanitarian neutrality to accommodate the Sudanese government's concerns, while largely ignoring those of the SPLA." Without a functioning Lifeline Sudan, responding to the needs of famine victims throughout Sudan, including the displaced, will be doubly difficult.

COURT UPHOLDS INS DETENTION OF CHILDREN

On September 7, a federal court panel let stand its decision allowing the Immigration and Naturalization Service (INS) to detain unaccompanied children until a relative comes forward to claim them.

The controversy arose in 1984 when then-INS Western Regional Director Harold Ezell announced, "No minor shall be released except to a parent or legal guardian." Critics charged that the Western Region's policy used children as "bait" to force undocumented parents to turn themselves in (see *Refugee Reports*, Vol. VIII, No. 11). In 1985, a lawsuit, *Flores v. Meese*, challenged the release policy, as well as the conditions in which the INS held children in detention.

That litigation, along with public pressure, helped give rise to new federal regulations, published on May 17, 1988,

setting forth INS criteria for the release of minors in INS detention. The regulations said that juveniles should be released, in descending order of preference, to:

- 1) parents, legal guardians, and adult relatives not in INS detention;
- 2) those relatives, in INS detention, who could then be released on a case-by-case basis together with the child;
- 3) a responsible person designated by the parent or legal guardian, when the parent or legal guardian is himself or herself in INS detention; or
- 4) in "unusual and compelling circumstances," under the discretion of the INS district director or chief patrol agent, other adults who execute an agreement to care for the juvenile's well-being and to ensure that the child appears in future proceedings.

At about the same time, March 7, 1988, Judge Robert J. Kelleher of the Central District Court of California issued an injunction supporting the claim of the *Flores* plaintiffs that the INS's limited release policy had violated the children's Fifth Amendment due process rights.

A sharply split panel of the Ninth Circuit Court of Appeals on June 20, 1990 reversed the district court injunction. Writing for the majority, Judge J. Clifford Wallace said, "Even if the INS's policy may not be the best possible policy, we are bound to uphold it if it has a rational basis. All we conclude is that it has."

In dissent, Judge Betty B. Fletcher wrote, "The facts of this case are among the most disturbing I have confronted in my years on the court. Children are being held in detention by the INS for as long as two years in highly inappropriate conditions out of a professed concern for their welfare."

Ian Fan, the U.S. attorney on the case, told *Refugee Reports*, "We vigorously dispute Judge Fletcher's contention that minors are detained for as long as two years." He said that his office has canvassed INS detention centers, and found "the average length of detention for minors is 30 to 60 days."

Fan noted that Judge Fletcher did not say that the regulations violated the Immigration and Nationality Act. Therefore, he said, "All you need to do is justify that the government position has a rational

basis."

Peter Schey, executive director of the Center for Human Rights and Constitutional Law, which represents the plaintiffs in the Flores v. Meese suit, said that the Ninth Circuit panel ruling raises the question, "Is the INS going to follow a highly restrictive policy resulting in unnecessary indefinite detention of minors, or will it be required to follow the same standards applied by all other state and federal agencies to release minors to responsible adults who are able and willing to care for them?"

A motion for a rehearing before the entire Ninth Circuit is pending.

IMMIGRATION JUDGE BARS SALVADORAN DEPORTATION BASED ON CIVIL WAR CONDITIONS

U.S. refugee law has long been predicated on the notion that asylum is strictly related to fear of persecution, and that fear of harm based on generalized violence or warfare does not meet the legal requirements for refugee protection.

But a recent decision by an immigration judge in Arlington, Virginia, to bar the deportation to El Salvador of a family fleeing that country's civil war skirts the pitfalls of refugee law by appealing instead to the principles of international humanitarian law.

In Matter of Santos, Judge Paul A. Nejelski found support in customary international law for "the right to flee flying bullets," so that persons threatened by a country at war should not be forced back. He noted that "throughout history, the principle of necessity has historically justified cross-border migrations by war refugees, justifying noncompliance with ordinary restrictions on movements of persons." Nejelski made an analogy to common law in this country that a person fleeing a burning building can cross a nearby property line and not be considered to have trespassed.

At the same time that he found protection from refoulement existing in humanitarian law, Nejelski was careful to say that the Santos family had not met the legal criteria for asylum in U.S. law. "Applying the facts of this case to the law of asylum...", he wrote, "I must deny the applications. Respondents' plight is lamentable, but there

is no showing that the respondents have been singled out because of one of the five grounds required by the statute, such as their political belief. The unpunished murder of Gomez [the husband and father of the family], the rape and murder of the respondent's nieces, the other horrors described are the unfortunate result of the civil war and under BIA [Board of Immigration Appeals] precedent do not result in a grant of asylum or withholding of deportation."

According to the judge's ruling, the Santos family could be deported to a third country not at war, if one could be found that would be willing to accept them.

In an earlier decision, Matter of Medina, the BIA ruled that the definition of refugee in the Geneva Convention only relates to refugees of international, and not civil, wars. It also ruled that customary international law that has evolved out of the Fourth Geneva Convention had not broadened to include displaced persons as refugees within the 1951 Refugee Convention and its 1967 Protocol.

Nejelski argues that in this instance "the right of nonreturn does not derive from the Geneva agreements, but from humanitarian law generally."

Expedited Appeal The Immigration and Naturalization Service (INS) has appealed the decision and asked the BIA for expedited consideration of its appeal, saying that Judge Nejelski's ruling was "clearly erroneous under Matter of Medina" and that the ruling "potentially impacts on thousands of asylum claims from applicants from a host of countries in which there is civil strife."

This is not the first time the INS has asked the BIA for expedited appeals of Judge Nejelski's decisions.

In filing an appeal of an earlier decision this year in which he granted asylum to a 19-year-old Salvadoran, the INS charged that "Judge Nejelski has settled into a pattern or practice...of rendering erroneous decisions..., thereby contributing...to a significant monthly-average increase in granted asylum cases for the two full-time sitting immigration judges in this district." To support its position in that call for expedited consideration of appeal, the INS cited 14 other proceedings, most of which involved Salvadoran asylum claims, to

show Nejelski's "recurring errors of law and disregard for BIA decisions."

The BIA denied the motion to expedite saying that "scorecard analysis of [an immigration] judge's decisions is irrelevant and inappropriate." It further noted that the 14 other cases raised by the INS "do not provide in themselves a basis for any conclusion regarding 'recurrent errors of law'" and criticized the Service for "entwining unrelated, unconsolidated appeals."

In the Santos case, Nejelski apparently foresaw that the INS might again want expedited consideration, and so ordered that transcription should be expedited in order to receive the earliest decision from the BIA.

While the Santos's attorney, William Van Wyke, is not challenging the motion for expedited consideration, he does take issue with the grounds for doing so put forward by the INS.

Van Wyke said that the assertion of error by the immigration judge is the basis for all appeals, and doesn't, in itself, justify expedited consideration. Further, Wyke argued, because the INS rarely deport people to other civil war situations, such as Ethiopia, Lebanon, Afghanistan, and Liberia, the decision, in reality, only has a broad impact on Salvadorans, who, he said, are deported to their homeland much more often than any other nationality experiencing civil war.

In an interesting twist, Dawn Martin, the attorney representing the Salvadoran in the case that the INS earlier failed to have considered on an expedited basis, told Refugee Reports that she is now considering raising the nonrefoulement defense on her client's behalf if that case is remanded on appeal.

MIAMI JUDGE BLASTS DISCRIMINATORY TREATMENT OF HAITIANS

Federal Judge Eugene Spellman ruled on July 16 that a Miami immigration judge failed to advise a Haitian asylum seeker of his rights and ordered a new hearing.

In doing so, he drew broader conclusions about what he observed as a double standard with respect to Haitians. The "INS has routinely engaged in underhanded tactics in

dealing with Haitians seeking asylum in this country, and has singled them out for special discriminatory treatment," he said. "Repeatedly, this Court and other federal courts have found that INS has engaged in illegal practices and policies with respect to Haitians."

The case involved a Haitian teenager, Noel Molaire, who stated in his appeal that his brother had been jailed, and possibly killed, because of his political beliefs and that a group of Macoutes were seeking to kill him because he refused to join them." Molaire had twice been taken to the airport to be deported, but cried and begged not be put on a plane for Haiti. He spent more than a month in isolation at INS's Krome detention center and the Metro Correctional Center, and, though out of isolation, was still being secluded from other Haitians at Krome at the time of the decision.

At his hearing, the immigration judge had only asked two questions: "Why did you come to the United States?" and "Okay, so you were coming up here to get a better job and everything. Is that correct?" He told Molaire, "I cannot let you in on someone else's passport and under the law have to order you to go back to Haiti.... Nothing more you say to me will make any difference in my decision."

In response to the decision, a lead editorial in the July 19 Miami Herald charged, "Never has there been any doubt that the Federal Government singles out refugees and would-be immigrants from Haiti for special discriminatory treatment. Never. Local INS officials no longer use the crude language of racism, as some did in the early 1970s, but the attitude is little changed."

Update

* The British and Vietnamese governments have reached an agreement that would allow for the nonvoluntary repatriation of boat people in Hong Kong whose claims to refugee status have been rejected, according to The Washington Post. Following two days of talks in Hanoi that concluded on September 21, officials representing Vietnam, Britain, Hong Kong, and the UN High Commissioner for Refugees (UNHCR) issued a statement saying

that the parties had "agreed to the modalities of repatriating those who, while not volunteering to return, are nevertheless not opposed to going back." UNHCR would play "an active role fully compatible with its humanitarian mandate" in ensuring that there is no force or coercion used on the returnees.

For more than one year, British and Hong Kong officials have been seeking to repatriate Vietnamese boat people who have been rejected for refugee status but who do not volunteer to return to Vietnam. Last December, Hong Kong authorities forcibly repatriated 51 Vietnamese but postponed further efforts following a storm of international protest led by the U.S. government.

This July, Secretary of State James A. Baker 3rd announced a shift in the U.S. position in an effort to preserve the international agreement to resolve the longstanding Vietnamese refugee problem known as the Comprehensive Plan of Action (CPA). "While we continue to oppose involuntary repatriation," Baker said, "we are willing to support UNHCR's suggestion for a new category of returnees--that is 'those who do not object.'"

A U.S. official in Hong Kong told The Washington Post that the recent agreement fit "within the parameters of what the United States has agreed to." The official added, "We are still opposed to the use of force."

There are currently 54,341 Vietnamese boat people in Hong Kong, of whom 10,272 have refugee status, 11,294 have been screened out, and 32,775 are awaiting an interview.

* The first breakthrough has been achieved in getting aid to at least some of the 1.9 million people affected by a famine in Angola that has already resulted in the deaths of between 3,800 and 10,000 people.

The government of Angola has agreed to allow the UN and the International Committee of the Red Cross (ICRC) to transport emergency relief supplies through neighboring Namibia directly into UNITA-held areas of southern Angola, where an estimated 150,000 people are said to be at immediate risk. The decision was announced following meetings between Angolan government officials and representatives of the U.S. State Department's Office of Foreign Disaster

Assistance (OFDA).

According to a report by members of a Congressional delegation that also visited Angola recently, however, the vast majority of those at risk will remain unassisted unless the Angolan government and UNITA agree to a cease-fire to allow relief to reach at-risk populations living in contested areas. Without a cease-fire, experts estimate that as many as 100,000 to 200,000 people could starve.

* UN High Commissioner for Refugees Thorvald Stoltenberg has asked the United States to end its policy of screening refugees who are seeking resettlement here for the human immunodeficiency virus (HIV).

In a September 10 letter to INS Commissioner Eugene McNary and other administration officials, Stoltenberg reiterated the World Health Organization's unambiguous position that screening does not prevent the introduction or spread of AIDS. He noted that only two of the more than 160,000 Indochinese refugee applicants for U.S. resettlement who were tested for HIV proved to be HIV-positive.

Stoltenberg said that refugees are unable to return to their home countries because it could endanger their lives. Screening and excluding from resettlement those who test positive for HIV not only closes another door for them, it also jeopardizes their right to first asylum "and puts in danger the most basic and inalienable right of refugees: the right to nonrefoulement," Stoltenberg said.

* Liberians are finding it difficult to obtain the "voluntary departure" for which the Immigration and Naturalization Service (INS) said they could apply.

On July 27, the INS announced that it would "view sympathetically" requests for voluntary departure from Liberian nationals in the United States as of that date. According to the Lawyers Committee for Human Rights, however, none of the Liberians whom they know of have had their requests accepted.

The Lawyers Committee identified several problems that Liberians have encountered, including: INS officials are unaware of the program; applicants are being given incorrect or contradictory instructions; applicants are facing delays in receiving employ-

ment authorization.

In an August 31 letter to INS Commissioner Gene McNary, Arthur Helton, the Committee's Refugee Project Director, urged INS to issue clarifications regarding eligibility requirements and application procedures, institute prompt processing of requests for employment authorization, and extend the July 27, 1990 cut-off date for eligibility due to the continuing violence in Liberia.

According to a U.S. State Department official who recently returned from Liberia, the situation of the estimated 100-150,000 civilians who remain trapped in Monrovia is the worst he has witnessed in 20 years of relief work.

"They have been without a water supply for five months, and without food for two months," he said. Children are dying. Cholera and other diseases are rampant. At night, he added, armed hooligans, many--though not all--soldiers belonging to what is left of the army of the late president, Samuel Doe, rape, pillage, and murder at will.

A temporary cease-fire was agreed to on September 22, 1990, and, following meetings in the region with Secretary of State James Baker III, rebel leaders agreed to initial talks on September 28, 1990. The cease-fire accord collapsed within days.

Meetings and Conferences

* The National Network for Immigrant and Refugee Rights is sponsoring a conference on October 27 and 28, on Immigrants Rights: A Civil Rights Issue for the 90s. The conference will be held in Berkeley, California and will include plenaries on HIV/AIDS and immigrant communities, and on employer sanctions. For further information, contact National Network, (415) 465-1984.

Resources

NEW USCR REPORT SAYS DISPLACED SUDANESE IN KHARTOUM IN DANGER OF FORCED REMOVAL

For more than a million displaced southern Sudanese living in and around Khartoum,

"life is hell," says a new report by the U.S. Committee for Refugees (USCR). Many of them have fled the war in the south, massacres by government-armed militias, and man-created famine that have left hundreds of thousands dead. Now they are in danger of forcible mass removals from Khartoum and relocation to desert areas, to "production camps" where they can serve as cheap labor, or even to their conflict-ridden home areas.

Khartoum's Displaced Persons: A Decade of Despair guides the reader through the complex world of Khartoum politics, policies, and practices that affect the displaced. It also discusses 1989's UN-coordinated relief effort, Operation Lifeline Sudan (OLS I), as well as this year's OLS II, which has met with considerably less international support and is on the verge of collapse [See Recent Developments].

The report also details the Sudanese government's attempts to remove the displaced southerners from the Khartoum area, and its attempts to seek international funding for the relocations. USCR director Roger P. Winter said, "First the government prevented donors and aid groups from assisting the displaced, despite the fact that it was doing nothing for them itself, and now it seeks to involve the international community in their relocation--not for humanitarian reasons, but because of political and supposed security concerns."

Single copies of Khartoum's Displaced Persons: A Decade of Despair are available free of charge to Refugee Reports subscribers (\$3.00 per copy for non-subscribers) from: U.S. Committee for Refugees, 1025 Vermont Ave. N.W., Suite 920, Washington, DC 20005. (202) 347-3507.

LAWYERS COMMITTEE ISSUES ANALYSIS OF ALIEN BLACKLIST

The Lawyers Committee for Human Rights has issued The Alien Blacklist: A Dangerous Legacy of the McCarthy Era, an analysis of the lookout list used by U.S. immigration and consular officials to determine whether foreigners are inadmissible on the basis of the political exclusion provisions of the 1952 McCarran-Walter Act. The list analyzed is a 370-page document with 353,324 entries reflecting the nationalities and dates of listing of affected aliens. Over 2/3 of the

entries on the list have been made since 1980. The list was obtained pursuant to a Freedom of Information Act request made by Arthur C. Helton, a lawyer with the Lawyers Committee, and counsel for Patricia Lara, a Colombian journalist who in October of 1986 was detained upon arrival at Kennedy airport, where she learned that her name was on the lookout list. Ms. Lara, a graduate of the Columbia University's School of Journalism, had flown to New York to attend an awards dinner for "distinguished contributions to the advancement of inter-American understanding and freedom of information." She contends that she was barred from entering as a result of writing articles critical of the Reagan Administration's policies in Central America.

A federal district judge in New York ordered the disclosure of the list in 1989, reasoning that "[t]he public has a great interest in knowing who has been listed in the NAILS [National Automated Immigration Lookout System] Lookout Book on the basis of the 'ideological exclusion provisions' These grounds for exclusion and the exclusion process itself affect citizens' constitutional rights, including the rights of free speech and association. Disclosure would protect citizens' rights to analyze and challenge the exclusion of individuals or the Government's reasons for excluding individuals." The list was compiled by the Immigration and Naturalization Service (INS) in June 1990 and released to the Lawyers Committee.

The Lawyers Committee finds the scope and magnitude of the lookout list "astounding." Of the total entries on the list, 345,273 were made by the State Department, and 6,838 by the INS, including 1,653 concerning Canadians and 2,230 concerning Mexicans.

Calling for significant reforms regarding the lookout list, the Lawyers Committee cites legislation enacted in February of this year prohibiting U.S. authorities from deporting, excluding or denying visas to nonimmigrant aliens due to their past or current political beliefs, statements or associations, which, if engaged in by a U.S. citizen in this country, would be protected by the U.S. Constitution. The Committee's principal recommendation is that the Executive's inter-agency process should purge the list of ancient and unnecessary listing

and remove and halt listings for alien visitors under the ideological exclusion provisions of the McCarran-Walter Act. According to Helton, "the lookout list is the dangerous legacy of a discredited era. In a period of diminishing world tensions, barring foreigners from visiting the United States for political reasons is an increasingly anachronistic practice. Substantial reform is necessary to ensure that innocent aliens and American citizens are not victimized in the future."

The Alien Blacklist is available for \$25 from the LCHR, 330 Seventh Ave., 10th floor north, New York, NY 10001. (212) 629-6170.

DIRECTORY OF NONPROFIT AGENCIES

The National Immigration Law Center has updated its Directory of Nonprofit Agencies that Assist Persons in Immigration Matters. In addition to an annotated listing of programs that provide free legal assistance to indigent persons in immigration proceedings, the new directory also includes state and national support centers that provide back-up help on immigration law issues.

The directory indicates which agencies are accredited by the Board of Immigration Appeals, as well as those authorized by the INS to provide English language and civics courses to temporary resident aliens.

Agencies are listed by state. Each entry includes the name of a contact person, the type of legal assistance provided, and the languages spoken.

The 137-page directory is available to nonprofit agencies for \$5 by contacting the National Immigration Law Center, 1636 West 8th Street, #215, Los Angeles, CA 90017. (213) 487-2531.

Reader Exchange

An opening is available beginning on December 1, 1990, for Director of the Joint Voluntary Agency Representative for Singapore and Indonesia, to be based in Singapore. Please respond as soon as possible to Ms. Pat Schaffel, American Council for Nationalities Service, 95 Madison Avenue, New York, New York 10016. (212) 532-5858.

UNITED STATES CONTRIBUTIONS TO INTERNATIONAL REFUGEE ASSISTANCE PROGRAMS, FY 1989

By International Organisation

UNHCR	\$120,529,000	UNBRO	12,243,000
UNRWA	63,300,000	IOM (Int'l Org. for Migration)	5,400,000
ICRC	39,271,000	Voluntary Organizations and	
		Bilateral Assistance	34,634,000
		TOTAL	\$275,377,000

By Targeted Area/Group

Refugees in Africa

UNHCR	\$64,414,000
ICRC	22,476,000
Voluntary/Bilateral	1,944,000
Subtotal	\$88,834,000

Refugees in East Asia

UNHCR	\$19,456,000
UNBRO	12,243,000
ICRC	5,824,000
Voluntary/Bilateral	1,289,000
Subtotal	\$38,812,000

Refugees in the Western Hemisphere

UNHCR	\$ 9,810,000
ICRC	1,746,000
Voluntary/Bilateral	320,000
Subtotal	\$11,876,000

Refugees in Near East, South Asia, and North Africa

ICRC	\$ 2,025,000
UNRWA	63,300,000
UNHCR	26,849,000
Voluntary/Bilateral	3,081,000
Subtotal	\$95,255,000

Refugees in Israel

UIA (United Israel Appeal)	\$28,000,000
Subtotal	\$28,000,000

Contributions to Worldwide Programs

ICRC	\$ 7,200,000
IOM	5,400,000
Subtotal	\$12,600,000
TOTAL	\$275,377,000

Source: United States Department of State, World Refugee Report.

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